

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION 782 OF 2010

Shri Pradeep S/o. Ukardaji Hedaoo,
Aged about 37 years,
R/o. Sarmaspura, Achalpur,
Dist. Amravati.

. . . PETITIONER

// VERSUS //

1. State of Maharashtra through its
Secretary, Tribal Development Department
Mantralaya, Mumbai-32.

2. The Scheduled Tribe Certificate Scrutiny
Committee, Amravati Division, Amravati
through its Member Secretary, Amravati.

. . . RESPONDENTS

Mr. S. S. Sanyal, Advocate for petitioner.
Mr. M. K. Pathan, AGP for respondents/State.

CORAM :- ROHIT B. DEO AND
Y. G. KHOBRAGADE, JJ.

DATED :- 27.01.2023

ORAL JUDGMENT (PER: Y. G. KHOBRAGADE, J.):-

Heard.

2. By this petition under Article 226 of the Constitution of India, the petitioner is challenging the order dated 29.01.2009 passed by respondent 2- Scrutiny Committee invalidating his caste claim of belonging to Halbi Scheduled Tribe.

3. The brief facts necessary for adjudication of the matter are as under:-

The petitioner belongs to Halbi Scheduled Tribe and was granted caste certificate by the competent authority. On 27.02.2006, he joined on the post of peon/watchman at Jagdamba Mahavidyalaya, Achalpur. He was called upon by the said School to submit his caste validity certificate within 3 months from the date of joining his duty. On 14.03.2006, the petitioner submitted his application of issuance of caste validity certificate to respondent 2-Scrutiny Committee, which was not decided by the it for a long time and on 22.11.2006, the petitioner lost his job due to not submitting the caste validity certificate with the School. The Scrutiny Committed rejected the caste claim of the petitioner belong to Halbi Scheduled Tribe vide order dated 29.01.2009, which he alleged to be received on 09.01.2010 i.e. after the delay of approximately one year of passing of the said order. Being aggrieved by the same, the petitioner approached this Court for quashing of the impugned order and for directions to the Scrutiny Committee to issue caste validity certificate.

4. The respondent-Scrutiny Committee appeared and filed its reply dated 16.08.2010 and oppose the petition. We have heard Mr. S.

S. Sanyal, learned counsel for the petitioner and Mr. M. K. Pathan, learned Assistant Government Pleader for respondents.

5. The learned counsel for the petitioner submitted that the Scrutiny Committee has itself framed issues and does not give any opportunity to the petitioner to put his case before the Scrutiny Committee and itself answered the said issues and passed the impugned order arbitrarily. It is submitted that the Committee has not considered the documents submitted by the petitioner, particularly the school record of his grandfather and caste certificates of his real sister- Rajini Hedao and real brother- Milind Headoo and communicated the impugned order to the petitioner after a delay of one year which show the malafide on the part of the Committee. Hence, requested for setting aside the impugned order and directions to the Scrutiny Committee to issue caste validity certificate to the petitioner.

6. Learned Assistant Government Pleader submitted that the Scrutiny Committee found that though the documents in respect of the petitioner show his caste Halbi but, the petitioner could not prove the affinity test of "Halbi Scheduled Caste". It is submitted that the caste claim of his real sister- Rajini Hedao and real brother- Milind Headoo have been rejected on 28.12.2004 and 14.12.2007 respectively, which was challenged by them and the matter was pending in this Court at

the time of decision of caste claim of the petitioner hence, the Scrutiny Committee has not considered their documents. It is submitted that during Vigilance Enquiry, the petitioner has stated surnames of his community as Parate, Nandanwar, Mahajan, Pakhale, Raikwar, Bokde, Bhende, Barapatre etc., which are not found in Halbi Scheduled Tribe but found in Halbi Koshti and also in the service book of the father of the petitioner- Ukardaji Headoo, his caste has been mentioned as Halbi (Hindu) and not Halbi (Schedule Tribe). Hence, it is submitted that the Scrutiny Committee has rightly passed the impugned order and there is no merit in the petition and prayed for dismissal of the petition.

7. We have perused the documents placed on record and carefully gone through the submissions advanced by both side. As stated above, the real brother of the petitioner- Milind Ukardi Headaoo has preferred ***Writ Petition 703/2008 (Milindkumar Ukardaji Headaoo Vs. State of Maharashtra)*** against invalidation of his caste claim by the Scrutiny Committee before this Court. It is pertinent to note this Court, for the reasons recorded in the judgment dated 06.06.2016, has directed the Scrutiny Committee to issue caste validity certificate of Halbi Scheduled Tribe to the real brother of the petitioner- Milindkumar Headoo on ground that the Scrutiny Committee ought to have given due weightage to the document pertaining to the

grandfather of the petitioner, Mahadeo Vithuji dated 09.07.1915 that recorded the entry of “Halbi” so also document pertaining to Shri Hiranman Kisanji, the cousin of the petitioner’s grandfather as the entry pertains to the year 1928. So also, the other documents of the year 1925 pertain to Shri Akaram Kisanji Hedao, who is cousin grandfather of the petitioner.

8. Also, after the case of *Apoorva Nichale Vs. Divisional Caste Scrutiny Committee [2010 (6) Mh.L.J. 401]*, the law in this regard has been settled. Now, it is well settled that when there exists a validity in the family from the paternal side, the claimant need not submit any further proof of his or her claim as regards particular social status and the Scrutiny Committee would have to accept the validity as sufficient proof of the claim of the person, unless the genuineness of the validity of such certificate is in question or blood relationship of the claimant with the person holding the validity certificate is of doubtful nature. Such is not the case here and therefore, the impugned order has to be held as illegal, deserving it to be quashed and set aside.

9. As the issues raised, regarding caste claim, in the present petition are elaborately dealt with by this Court in the case of *Milindkumar Ukardaji Hedao* (supra) and as a fact that the real brother of the petitioner is granted caste validity certificate of Halbi

Scheduled Tribe, we have no hesitation to observe that the petitioner belongs to Halbi Scheduled Caste.

10. In view of the above discussion, we pass the following order:-

- i) The writ petition is allowed.
- ii) We quash and set aside the impugned order dated 29.01.2009 passed by respondent 2- Scrutiny Committee.
- iii) The respondent 2- Scrutiny Committee is directed to issue caste validity certificate of Halibi Scheduled Tribe to the petitioner within four weeks from the date of receipt of this order.
- iv) Rule is made absolute in the above term. No costs.

(Y. G. KHOBRAGADE, J.)

(ROHIT B. DEO, J.)

RR Jaiswal