
(2002) 03 BOM CK 0016
In the Bombay High Court
Case No : Writ Petition No. 940 of 2002

Ankush Balaji Lad

APPELLANT

Vs

State of Maharashtra and Others

RESPONDENT

Date of Decision : 06-03-2002

Acts Referred:

Constitution of India, 1950 — Article 342

Citation : (2002) 6 BomCR 201

Hon'ble Judges : D.G. Karnik, J

Bench : Single Bench

Advocate : V.D. Salunke, for the Appellant; M.L. Dharashive, A.G.P., for the Respondent

Final Decision : Dismissed

Judgement

D.G. Karnik, J.—The caste certificate of the petitioner showing him to belong to Rajput Bhamta caste was invalidated by the Caste Scrutiny Committee by an order dated 25-1-2002. This order is challenged in this writ petition. The Caste Scrutiny Committee scrutinized the evidence produced by the petitioner and came to the conclusion that all the evidence was of recent origin and the documents relate to the period much after the Rajput Bhamta caste was declared as V.J.N.T. in the year 1961. The Caste Scrutiny Committee, therefore, declined to place much reliance on the said evidence of recent origin.

2. The Caste Scrutiny Committee had called for the report of the Vigilance Committee. As per the judgment of Supreme Court of India in Kumari Madhuri Patila and another Vs. Addl. Commissioner, Tribal Development and others, . Since the report of the Vigilance Committee was against the petitioner, a notice was issued and an opportunity of hearing was given to the petitioner. The petitioner relied upon the caste certificate issued to Umesh Pralhad Lad, who is alleged to be first cousin brother of the petitioner. Learned Advocate for the petitioner also pointed out that this caste certificate of Umesh was validated by Caste Scrutiny Committee on 8-6-1997 and it was contended that if the cousin

belonged to Rajput Bhamta caste, then the petitioner must also be held to belong to Rajput Bhamta caste.

3. In case of paternal first cousins (in this case, Umesh is alleged to be paternal cousin brother), they must have common grand father. In the present case, grand father of Umesh is shown to be Kishan while grand father of Ankush is shown to be Vithal. Thus, Umesh and the petitioner Ankush cannot be first cousin brothers as alleged. It is not alleged that they are second cousins.

4. The Caste Scrutiny Committee called for the records of the Caste Validity Certificate issued to Umesh Pralhad Lad and therein it was revealed that other Caste Validity Certificate was issued to Umesh without obtaining the report of the Vigilance Committee. As the Caste Validity Certificate was granted on 8-6-1997, it was necessary to call for the report of the Vigilance Committee as laid down by the Hon"ble Supreme Court in the case of Kumari Madhuri Patil and another (supra). On this account, the Caste Scrutiny Committee did not rely upon caste validity certificate of Umesh Pralhad Lad but insisted upon an independent evidence.

5. In the case of Kumari Madhuri Patil and another, (supra), Hon"ble Supreme Court has pointed out the need to carefully find out whether a person who claims to belong to Scheduled Caste/Scheduled Tribe, really so belongs. It is on the basis of such certificate that a person claims admission. In an educational institution or entry into a Government service and other benefits reserved for scheduled and/or backward classes. If the admission on the basis of incorrect Caste Certificate is given, the seat to which the admission is given would be filled in by a person not belonging to Scheduled Caste and thereby really eligible Scheduled Caste person would be deprived of that seat. In this connection, the Supreme Court observed in para 12 of the judgment:

"The admission wrongly gained or appointment wrongly obtained on the basis of false social status certificate necessarily have the effect of depriving the genuine Scheduled Castes or Scheduled Tribes or O.B.C. candidates as enjoined in the Constitution of the benefits conferred on them by the Constitution."

It is in this light that the Apex Court has laid down the necessity of verification of the Caste Certificate by Caste Scrutiny Committee and also laid down that Caste Scrutiny Committee should call for the report of the Vigilance Committee. If the report of the Vigilance Committee is against the person claiming to belong to a particular caste, an opportunity of hearing and adducing evidence is given to him. Thus, obtaining of the report of Vigilance Committee is an important step before granting Caste Validity Certificate. This requirement itself was lacking in the case of Caste Validity Certificate granted to Umesh Pralhad Lad. If therefore the caste validity certificate issued to Umesh without proper procedure and without obtaining report of Vigilance Committee is regarded as sacrosanct ,then on that basis all his blood relations would claim caste certificate. If caste certificate issued to the first applicant is erroneous, there would be a chain of

erroneous certificates issued thereafter and each subsequent erroneous certificate would again be a source of further such certificates. Though the Caste Certificate issued to a person is certainly a relevant factor to be considered while considering a claim for Caste Validity Certificate made by his relative, that may not be conclusive in every case. The Caste Scrutiny Committee would, when such certificate is doubted, be entitled to verify whether it was issued after following the procedure. Of course, it cannot sit in appeal over the certificate issued in another case but if it is found that the former certificate issued in case of relative of the applicant was issued without obtaining report of Vigilance Committee or in breach of the guidelines issued by the Apex Court in Madhuri Patil's case, the Caste Scrutiny Committee may not attach much probative value to it. It was in this light that the Caste Scrutiny Committee did not attach much probative value to the Caste Validity Certificate granted to Umesh.

6. There is one more circumstance which is very important. No evidence was produced regarding caste of the father of the petitioner alleging that the father was illiterate and was never admitted to the school. The father had signed two documents namely; (1) application dated 24-6-1986 made by him for admitting petitioner Ankush to the school and (ii) an affidavit undated (annexed at Exhibit "C" to the petition). The xerox copies of these documents were handed over by learned Advocate for the petitioner. Signatures on both the documents are made in English and in running hand. Ex facie, they do not appear to be signatures made by an illiterate person. Signatures are fluently made as can be seen from various strokes of running alphabets used in the signature. Thus, the father of the petitioner is certainly literate and should certainly have evidence of the record of his admission to the school or other record showing his caste. No such evidence was produced before the Caste Scrutiny Committee. I am, therefore, satisfied that no injustice would be caused in the present case if the petition is rejected.

7. Petition rejected.