

(2016) 04 BOM CK 0081
In the Bombay High Court
Case No : Writ Petition No. 4588 of 2003

Arun

APPELLANT

Vs

Dr. Panjabrao Agricultural University Akola & Others

RESPONDENT

Date of Decision : 07-04-2016

Acts Referred:

Constitution of India, 1950 — Article 342

Citation : (2016) 3 AIRBomR 641

Hon'ble Judges : B.P. Dharmadhikari and P.N. Deshmukh, JJ.

Bench : Division Bench

Advocate : A.J. Deshpande, Advocate, for the Appellant; M.M. Ekre, AGP, for the Respondent

Final Decision : Allowed

Judgement

B.P. Dharmadhikari, J.(Oral) - Advocate Shri Deshpande submits that caste claim of petitioner as belonging to "Halbi" ? Scheduled Tribe has been invalidated by respondent no. 4 ? Scrutiny Committee on 7th of November, 2003 only on the ground that Affinity Test is not satisfied. He has taken us through entire order and also through the vigilance report. He points out that old documents conclusively show the caste as "Halbi" but those documents have been ignored. Our attention is also drawn to the judgment dated 11th of January, 2016 in Writ Petition No. 3751 of 2003 wherein real brother of petitioner, by name Atul, has been given validity by this Court.

2. Learned Assistant Government Pleader has attempted to assist the Court by using court records. He points out that as Vigilance Authorities conducted home enquiry and noted that traits and customs were different, Scrutiny Committee has independently come to conclusion that though documents show caste as "Halbi", petitioner does not belong to "Halbi" tribe.

3. The petitioner has placed reliance upon documents at Sr.No. 11 and at Sr.No. 13 in the impugned order. Document at Sr.No. 11 is School leaving Certificate in

respect of Pandurang Kisan Nadge which records his caste as "Halbi" on 1st of December, 1930. Document at Sr.No. 13 is death registration of one Kisan Hiranman Halbi on 12th of September, 1930. Perusal of impugned order does not show that the Scrutiny Committee has considered document at Sr.No. 11. It has only looked into document at Sr.No. 13. Said document is not found to be interpolated or fabricated.

4. Vigilance Report dated 19th of July, 2003 specifically records that in school records the caste entered is "Halbi". Even caste of father is found to be recorded as "Halbi" and occupation is mentioned as Weaver. Thereafter, home enquiry and data gathered about traditions and ceremonies has also been mentioned. This vigilance report specifically refers to vigilance enquiry in case of Atul Madhukar Nadge, brother of present petitioner. The vigilance authorities have opined that culture of candidate (petitioner) does not match with culture of Halbi tribe.

5. Thus, old document at Sr.No. 11 has been lost sight of and other old document at Sr.No. 13 has been discarded only because affinity test is not satisfied. When the old documents were found genuine, the paramount importance given to affinity cannot be accepted. The same controversy has been gone into by the Division Bench of this Court in the judgment dated 11th of January, 2016 in Writ Petition No. 3751 of 2003.

6. Therefore, in the light of above discussion, we find that impugned order dated 7th of November, 2003 is unsustainable. We accordingly quash and set it aside. Respondent No.4 Scrutiny Committee is directed to issue validity to petitioner as candidate belonging to "Halbi" ? Scheduled Tribe within six weeks from today.

7. Writ Petition is thus allowed. Rule is made absolute accordingly. No costs.