
(2014) 04 BOM CK 0217
In the Bombay High Court
Case No : W.P. No. 1497 of 2014

Dinesh

APPELLANT

Vs

State of Maharashtra

RESPONDENT

Date of Decision : 22-04-2014

Acts Referred:

Citation : (2014) 6 ALLMR 842 : (2015) 1 BomCR 235 : (2014) 4 MhLj 198

Hon'ble Judges : C.V. Bhadang, J;B.R. Gavai, J

Bench : Division Bench

Advocate : Neeta Jog and S.A. Radke, Advocate for the Appellant; S.B. Ahirkar, A.G.P. and S.M. Puranik, Advocate for the Respondent

Final Decision : Allowed

Judgement

B.R. Gavai, J.—Rule. Rule made returnable forthwith. Heard the learned Counsel for the parties finally by consent. The petitioner has approached this Court being aggrieved by the order passed by the respondent No. 2 Committee dated 4-3-2014 thereby invalidating the claim of the petitioner of belonging to "Halba" Scheduled Tribe.

2. The petitioner claims to be belonging to "Halba" Scheduled Tribe. He has been issued a certificate to that effect by the Competent Authority. The petitioner's claim was referred to the respondent No. 2 Committee for verification. It was rejected twice. However, on two occasions the matter was remitted back to the respondent Committee. After the said remand, the Scrutiny Committee has again invalidated the claim of the petitioner. Hence, the present petition.

3. Heard Mrs. Neeta Jog, learned Advocate for petitioner, Mr. S.B. Ahirkar, learned A.G.P. for respondent Nos. 1 and 3 and Mr. S.M. Puranik, learned Advocate for respondent No. 2.

4. Mrs. Neeta Jog, learned Advocate for petitioner, submits that in spite of various pre-constitutional documents, the petitioner's claim has been rejected on untenable grounds. She submits that the petitioner's case is squarely covered by

the judgment of the Apex Court in Anand Vs. Committee For Scrutiny and Verification of Tribe Claims and Others, and the Division Bench of this Court in the case of Sou. Priya Parate Vs. Scheduled Tribes Caste Certificates Scrutiny Committee, "Adivasi Vikas Bhavan" Giripeth, Amravati Road, Nagpur, The Principal, Shri Sant Gajanan Maharaj College of Engineering, Shegaon, District Buldhana and State of Maharashtra,

5. Mr. S.M. Puranik, learned Advocate for respondent No. 2 Committee, on the contrary, submits that there are various documents belonging to the petitioner's father showing his caste to be "Koshti" and as such, the petitioner's claim has rightly been rejected by the Committee. The learned Counsel submits that each case has been decided on the basis of its own merits and as such, no interference is warranted with the impugned order.

6. We are constrained to state that the respondent Scrutiny Committee in spite of taking pride in calling itself a quasi-judicial authority, on various occasions does not perform the duties which are associated with authority exercising quasi judicial authority. On various occasions, we find that in spite of various judgments of this Court and the Apex Court, the Scrutiny Committee rejects the claim on the grounds not permissible in law. The present case is one of the classic examples of the same.

7. The Apex Court in the case of Anand (cited supra) has in clear terms held that a due weightage has to be given to the pre-constitutional documents. It has been held that with the passage of time, it may not be possible for a candidate to know the traits of the original tribe to which he belongs. In that view of the matter, it has been held that the pre-constitutional documents should be given due consideration while considering the claim of a candidate.

8. The Division Bench of this Court had an occasion to consider the judgment of the Apex Court in the case of Sou. Priya Parate (cited supra) to which one of us (Gavai, J.) was a party. In the said case also, this Court had given a view that pre-constitutional documents have to be given weightage relying on the treatise on castes and tribes in Central Provinces of India authored by R.V. Russell and Gazetteer of Amravati District. We had observed that Halbas who have migrated to certain areas of Vidarbha have taken to the profession of weaving and as such, merely because in certain documents the caste is shown as "Koshti" should not be construed as an impediment in grant of validity certificate.

9. In the present case, the petitioner has placed on record the certificate issued by the Chief Officer of the Municipal Council, Achalpur showing therein that the Municipal Council Birth Register No. 5 on page 92 the entry regarding petitioner's grandfather's birth is recorded on 2-7-1927. The caste in the said document is shown as "Halbi". The petitioner has also placed on record the certificate issued by the Municipal Council, Primary School, Abbaspura, Achalpur City showing therein that the petitioner's grandfather's brother, namely, Sadashiv Nagoji was studying in the said school between 1-8-2017 to

16-10-1917 and his caste is shown as Halbi. Similarly, in the transfer certificate of the said Sadashiv of the year 1921 his caste is shown as Halbi. In view of this pre-constitutional document which is of earlier era prior to 1950, merely because in some documents the petitioner's father's caste is shown as "Koshti" could not have been a ground for rejection of the petitioner's claim.

10. We find that every authority in the State is bound to follow the law as laid down by this Court in Priya Parate's case. The Division Bench of this Court has in unequivocal terms held that if the pre-constitutional documents show the caste of the ancestors of the candidate to be Halba/Halbi and merely because in some documents the caste is shown as Koshti, it cannot be a ground for rejecting the claim of the candidate of belonging to Halba Scheduled Tribe. The SLP which was filed by the respondent No. 2, who claims to be a quasi-judicial authority has been dismissed by the Apex Court observing that there was no ground either on facts or law to interfere with the order. In that view of the matter, every authority and at least a quasi-judicial authority is bound to follow that view. In the entire judgment of the Scrutiny Committee, there is not even a whisper regarding the judgment delivered by this Court. We could have taken a serious view of the matter. However, we leave at this stage by warning the Committee that if hereinafter we come across any such instance, we will be constrained to take a serious view of the matter and take appropriate steps in accordance with law. In that view of the matter, the petition deserves to be allowed. Rule is made absolute in terms of prayer clause (i). There will be no order as to costs.