

(2008) 06 BOM CK 0058

In the Bombay High Court

Case No : Writ Petition No. 3088 of 2008

Ganesh Ashok Narhari

APPELLANT

Vs

State of Maharashtra and Others

RESPONDENT

Date of Decision : 19-06-2008

Acts Referred:

Citation : (2008) 6 MhLj 197

Hon'ble Judges : S.S. Shinde, J; Bilal Nazki, J

Bench : Division Bench

Advocate : R.K. Mendadkar, for the Appellant; V.S. Masurkar, Government Pleader, for the Respondent

Judgement

S.S. Shinde, J.—Rule. Rule is made returnable forthwith. By consent taken up for final hearing. Heard the learned Counsel appearing for the petitioner and learned Government pleader appearing for the State.

2. By this petition, the petitioner has challenged the order dated 27-3-2008 passed by Respondent No. 2-Committee thereby invalidating the caste certificate of the petitioner as belonging to Mahadeo Koli - Scheduled Tribe. It is the contention of the petitioner that considering the evidence produced by him in support of his caste claim, he was granted caste certificate as belonging to Mahadeo Koli - Schedule Tribe by the Tahsildar Executive Magistrate, Pune City, Dist. Pune. The petitioner was appointed on the post of Sr. Technical Assistant (A) under the Reserved Category of Scheduled Tribe by Respondent No. 3. The petitioner's caste certificate was referred to Respondent No. 2 the Caste Scrutiny Committee, Pune for verification. It is the case of the petitioner that the petitioner submitted voluminous evidence in support of his tribe claim before the Caste Scrutiny Committee.

3. The Police Inspector of Vigilance Cell attached to the Scrutiny Committee conducted the detailed home and school enquiry and recorded the statement of the petitioner on 25-1-2005. He has also examined the school records in respect

of the blood relatives of the petitioner from paternal side and submitted his enquiry report to Respondent No. 2 committee on 25-7-2005. Thereafter the petitioner was called for hearing on 23-8-2005. The petitioner was given copy of the Vigilance Cell Report on 23-8-2005 and he was asked to submit his say on or before 10-9-2005.

4. The petitioner submitted his detailed reply to Respondent No. 2 Committee on 17-10-2005 wherein he raised different issues, the important being, that the persons whose names are shown in the Enquiry Report from Sr. Nos. 1 to 8 are not all his relatives. Further he made it clear that the person shown at Sr. No. 4 namely Ashokkumar Haribhau Narhari is not related to him because his father's name is Ashok Haribhau Narhari.

5. The petitioner was called for hearing on 10-10-2005 by Respondent No. 2 Committee. The petitioner remained present for personal hearing and filed in Sunsvani Patrica giving information about the traits, characteristics, customs and traditions of his community. Again he was called for hearing on 8-8-2007 when he remained present and he was given opportunity to submit additional documents. Again he was called for further hearing on 27-3-2008. But he could not remain present on 27-3-2008.

6. Respondent No. 2 passed order on 27-3-2008 invalidating the caste certificate of the petitioner as belonging to mahadeo Koli, Scheduled Tribe.

7. The petitioner apprehended that because of the order passed by Respondent No. 2 Committee, he may lose his employment and, therefore, he filed the present writ petition challenging the order dated 27-3-2008 passed by Respondent No. 2 Committee.

8. The main contention of the petitioner is that the persons whose names shown in the enquiry report by the Vigilance Cell from Sr. Nos. 1 to 8 are not at all his relatives. His further contention is that the person shown at Sr. No. 4 viz. Ashokkumar Haribhau Narhari is not related to him because his father's name is Ashok Haribhau Narhari. According to the petitioner, Respondent No. 2 Committee ought to have considered the documents, which are of post Presidential Order, submitted by the petitioner in respect of his blood relatives from paternal side. His further contention is that Respondent No. 2 Committee ought to have considered the information given by the petitioner in respect of traits, characteristics, customs and traditions of his tribe.

9. This Court, by an order dated 9-6-2008, directed the learned Assistant Government Pleader to produce Vigilance Report. Pursuant to the said direction, the Vigilance Report is made available to us for perusal.

10. From the perusal of the said report it reveals that the petitioner has given genealogy of his family which is as under:

11. The petitioner has also submitted number of documents in support of his caste claim before Respondent No. 2 Committee, more particularly, the certificate

issued by the Grampanchayat, Murud, Dist. Raigad.

Perusal of the Vigilance Cell Report indicates that they have made inquiry from the Educational Institutions and gathered the following information from them in respect of the school record of the petitioner's relatives. According to the Vigilance Cell Report, one Shriram Bama Narhari is the cousin grandfather of the petitioner and he studied in St. School Boli, Tal. Murud Dist. Raigad and he belongs to Koli caste. According to the Vigilance Cell Report one Kashibai Janu Narhari is the sister of great grand father of the petitioner and she studied in St. School Boli Tal. Murud Dist. Raigad and she belongs to Koli Caste. Further the said report reveals that one Shri Kanhopatra Vitthal Narhari whose relation with the petitioner is not mentioned in the said report is studied in the said school at Boli and he belongs to Koli Caste. The said report indicates that name of one Ashokkumar Haribhau Narhari is shown at Sr. No. 4 and his relation with the petitioner is shown as father who belongs to Hindu Koli. One Shri. Suresh Pandurang Narhari, whose relation with the petitioner is not mentioned in the report, is shown at Sr. No. 5. However, it is mentioned that he belongs to Hindu Koli Caste. Further the said report shows that one Suhas Haribhau Narhari belongs to Hindu Koli Caste, whose relation with the petitioner is shown as uncle. According to the Vigilance Cell Report one Ulka Ganpat Narhari belongs to Hindu Koli Caste is the cousin cousin sister of the petitioner and one Vanmala Ganpat Narhari belongs to Hindu Koli Caste is also the cousin cousin sister of the petitioner.

12. The petitioner, as mentioned above, has produced the genealogy of his family. None of the persons, whose names are included in the said genealogy finds place in the Vigilance Cell Report. On the contrary, the eight persons, whose names are in the Vigilance Cell Report, are totally different. According to the petitioner they are not related to him.

13. We have compared genealogy placed by the petitioner on record by way of affidavit with the Vigilance Cell Report. We find that the persons, who are named in the Vigilance Cell Report as the relatives of the petitioner, are different from the persons, whose names are mentioned in the genealogy placed by the petitioner on record. Apart from this, Respondent No. 2-Committee has not considered the other documents produced on record. In the Vigilance Report surprisingly the name of father of the petitioner is mentioned as Ashokkumar Haribhau Narhari. However, according to the petitioner, his father's name is Ashok Haribhau Narhari. Since the petitioner on affidavit stated before Respondent No. 2 - Committee about his genealogy, the report submitted by the Vigilance Cell, which mentions names of different persons who are not in relation with the petitioner, should not have been accepted by the Caste Committee.

14. In the result, the order passed by Respondent No. 2 ? Scrutiny Committee on 27-3-2008 is set aside. The matter is remanded back to Respondent No. 2 - Scrutiny Committee for fresh consideration. Respondent No. 2 shall give opportunity to the petitioner and take into consideration the entire documentary

evidence produced by the petitioner before it and take appropriate decision in accordance with law within a period of two months from the receipt of this order.

15. As a consequence of the order of the Committee, the services of the petitioner have been terminated. The petitioner may take separate remedies against the said order. The Rule is made absolute to the extent above. The writ petition is disposed of accordingly.