
(2009) 11 BOM CK 0026
In the Bombay High Court
Case No : Writ Petition No. 5705 of 2009

Prasad Pralhad Ingle

APPELLANT

Vs

State of Maharashtra and Another

RESPONDENT

Date of Decision : 13-11-2009

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2010) 2 ALLMR 391 : (2010) 3 BomCR 700

Hon'ble Judges : Patil Naresh H., J;Chandiwai K.U., J

Bench : Division Bench

Advocate : S.T. Shelke, for the Appellant; V.H. Dighe, A.G.P. for State and B.L. Sagar-Killarikar, for the Respondent

Final Decision : Dismissed

Judgement

Chandiwai K.U., J.—Heard learned Counsel for the respective parties and by consent of parties the petition is disposed of at the stage of admission.

2. The rejection of the caste claim of the petitioner to be "Kunbi" caste, notified as Other Backward Class (OBC) by the Government of Maharashtra, by order dated 31.7.2009 passed by the respondent No. 2 -Divisional Caste Scrutiny Committee, Aurangabad (hereinafter to be referred as the Committee), is subject of challenge in this writ petition filed under Article 226 of the Constitution of India.

3. The petitioner, a student of engineering, asserts, his ancestor one Janji Ingale had four sons, namely, Tukaram, Sakham, Ananda and Aayaji. Tukaram had one son Rambhau and two daughters, Ramkor and Shamkor. The grandfather of the petitioner, namely, Rambhau is having five sons and two daughters, namely Santoshrao, Pralhad, Parasram, Vishwas, Jagdish, Tulsabai and Jijabai respectively. The petitioner is the only son of his father with other two sisters. The genealogy of the family of the petitioner is certified by the local Police Patil of the village.

4. The petitioner further asserts that his caste is "Cunbi", for which a Caste Certificate dated 31.1.2005 was issued to him by the Sub Divisional Officer. Since the said Certificate was referred to the Committee for its verification by the college, it was scrutinized by the Committee and as stated above, the Committee has invalidated the caste claim of the petitioner.

5. The petitioner contends, the Committee did not consider the Caste Validity Certificate of cousin of the petitioner on erroneous assumptions. The petitioner has now got one more document, i.e. Birth extract of Rukhmi, who is daughter of Aanand Ingale, brother of great grandfather of the petitioner, whose caste is shown as "Kunbi". The petitioner has now also one more document in the nature of extract of record of right of one Sampat Aananda, cousin of grand-father of the petitioner wherein caste of said Sampat is shown as "Kunbi". The petitioner has now Caste Validity Certificate of his cousin Sharad Jagdish Ingale dated 5.5.2004. These documents, according to the petitioner, could not be produced before the Committee as they were not available at the material time, and he carried an impression that the documents, which are produced by him before the Committee were sufficient enough for validation of his caste claim.

6. Mr. Sagar Killarikar, learned Counsel appearing for the respondent No. 2 Committee invited our attention to the judgment of this Court (Coram: B.H. Marlapalle and A.S. Bagga, JJ.) in the matter of Jagannath D. Hole v. State of Maharashtra and Ors. reported in AIR 2006 (1) Bom.R. 365.

7. On going through the papers we find that the caste of grand-father of the present petitioner in the extract of birth record and even in record of rights (Hakka Nondani form) is shown as "Maratha", residing at Pentakali. The reference of great grandfather Tukaram to be showed as "Kunbi" in the year 1.7.30 AD is non-consequential as the genealogy itself is not legally established barring disclosing that Rambhau Tukaram is grandfather of the present petitioner. Further, in the School Leaving Certificate dated 7.7.1960 of Pralhad Rambhau Ingale (father of the petitioner) the caste "Maratha" is shown.

8. The reference of subsequent certificate and its non-availability is difficult to digest as such certificate is dated 5.5.2004 and the petitioner in such cases of caste verification, which is crucial for his career, could not be in slumber all these years.

9. The Committee has observed that the School Leaving Certificate of Vishwas Rambhau shows date of birth as 1.7.1952 and Caste as "Kunbi". However, the other document of said Vishwas is showing his date of birth as 1.7.1953 and caste as "Maratha". The discrepancy in these two documents has gone unexplained. The Caste Certificate of cousin placed at serial No. 10 before the Committee dated 4.4.2000 could not have been considered and rightly so done by the Committee.

10. It is pertinent that "Kunbi" is included as Other Backward Class (OBC) effective from 13th October, 1967. It was incumbent upon the petitioner to have

produced the record of his close/blood relations prior to 1967 or the revenue record. The so-called record of Tukaram Ingale, showing him to be of "Kunbi" caste by itself will not accelerate the contention as no efforts were made by the petitioner to establish his genealogy with said Tukaram Ingale. The findings recorded by the respondent No. 2 Committee in the set of above facts can not be faulted.

11. In the facts of the case cited (supra) the Division Bench has observed that if such cases of "Kunbi" are accepted, then the entire "Maratha" community in the State of Maharashtra will have to be accepted to be belonging to "Kunbi" (OBC) caste and this would result in nothing short of social absurdity. The petition lacks merit, it is dismissed.