
(2022) 05 BOM CK 0014
In the Bombay High Court
Case No : Writ Petition No. 2886 Of 2019

Pratik	Vs	APPELLANT
State Of Maharashtra And Others		RESPONDENT

Date of Decision : 02-05-2022

Acts Referred:

Citation : (2022) 05 BOM CK 0014

Hon'ble Judges : Sunil B. Shukre, J;M.S. Jawal Kar , J

Bench : Division Bench?

Final Decision : Allowed

Judgement

M.S. Jawalkar, J

1. Heard. Rule. Rule made returnable forthwith. Heard finally by consent of the learned Counsel appearing for the parties.
2. The petitioner, by this petition is questioning the legality and validity of order passed by the Secretary, Divisional Caste Scrutiny Committee dated 31/03/2018, thereby invalidating the claim of the petitioner.
3. The petitioner is the student of Bachelor of Engineering taking education in Rajiv Gandhi College of Engineering, Hingna, District Nagpur. He moved an application for caste validity certificate to respondent no.2 (hereinafter referred as 'Scrutiny Committee'). He claimed to belong to the caste 'Rajput Bhamta' included at Entry No. 10 in the list of 'Vimukta Nomadic Tribe'.
4. The petitioner submitted his claim to the Scrutiny Committee for verification of certificate and after receiving the application, the Scrutiny Committee asked the petitioner to remain present before the Committee. As there was no order passed for long period, the petitioner filed Writ Petition No.5619/2017 (Pratik Vs. State of Maharashtra and one) before this Court. Due to filing of petition, it is alleged that, the respondent no.2 made superficial enquiry into the matter and passed impugned order dated 31/03/2018 and rejected the caste claim of the petitioner.

The petitioner placed on record genealogy and documents including the declaration by this Court in respect of his uncle Deepak.

Geneology produced is as under –

The following documents including documents having great probative value placed before Caste Scrutiny Committee:

Sr.

No.

Names

Relation with the petitioner

Documents and Certificates

Date

Caste.

1

Ashok Singh Rawat

Father

School Leaving Certificate

28/06/1963

(Date of Admission)

Rajput Bhamta

2

Ashok Singh Rawat

Father

Caste Certificate

01-09-1981

Rajput

Bhamta

3

Jagganathsingh Gangusingh Sahab

Grandfather

Abstract of Admission Cancel Register

10/09/1950

(Date of Admission)

Bhamta Rajput

4

i)Ramnath Gangusingh ii)Jagganath Gangusingh iii)Badrinath Gangusingh
iv)Kashinath Gangusingh v)Eknath Gangusingh

Petitioner's paternal side relatives

7/12 Extract

1968-69

Caste not mentioned

5

Gangusingh Moonsingh

Great Grandfather

Abstract of Field Book of Survey No. 62 of Tahsil Office, Nanded

Date not mentioned

Rajput Bhamta

6

Deepak Kashinathsingh Rawat

Uncle

Caste Validity Certificate

06-04-2004

Rajput Bhamta

7

Rajansingh Jagannathsingh Rawat

Uncle (Elder brother of the petitioner's father)

School Leaving Certificate.

20-06-1960

Rajput Bhamta

5. From these documents it can be seen that relatives of paternal side are issued with validity certificate, however, Caste Scrutiny Committee discarded the documents without granting any opportunity to cross examine or lead evidence

on these documents. It is submitted that order passed is patently erroneous, illegal and contrary to the law laid down by this Court and Apex Court.

6. Learned Counsel for the petitioner relied on following decisions:

1. Mukesh Pandurang Bastav Vs. State of Maharashtra and others, 2018 (2) Mh.L.J. 180.

2. Milind Bhimsing Shirsath Vs. State Vs. State of Maharashtra and others, 2020 (3) Mh.L.J. 529.

3. Bharat Bhagwan Tayade Vs. State of Maharashtra and others, in Writ Petition No. 11617 of 2017 dated 15/07/2022.

4. Mayuri D/o Jagannatha Pandhare Vs. State of Maharashtra Vs. State of Maharashtra and others, 2021 (2) Mh.L.J. 487.

5. Apoorva D/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No.1, Nagpur and others reported in 2010 (6) Mh.L.J. 401.

7. As against this learned Assistant Government Pleader Shri N.S. Rao supported the order passed by the Scrutiny Committee and submits that there is difference in caste mentioned in the documents. The enquiry was conducted through vigilance cell. The vigilance cell verified school leaving certificate with record and found that in the column of caste the words 'Rajput Bhamta' were written in different handwriting and different ink. The entries are recorded by playing fraud. It is also further submitted that so far as validity certificate of Deepak Kashinathsing Rawat is concerned, the Caste Scrutiny Committee rightly held that the person is distant relative of the petitioner and the validity certificate is issued by the Aurangabad Committee as per the direction of the Court and hence it was not considered appropriately. The Scrutiny Committee rightly invalidated the caste claim of the petitioner.

8. We have heard learned Counsel for the parties at length. Perused genealogy and documents placed on record. In view of the Government Resolution dated 21/11/1961, 'Rajput Bhamta' is notified as Nomadic Tribe. Considering that, as cut off date, there are documents prior to cut off date on record in respect of blood relatives of the petitioner. There is extract of admission cancel register of grandfather of the petitioner dated 10/09/1950 wherein his caste is shown as 'Bhamta Rajput'. There is one school leaving certificate of uncle Rajnathsing Rawat of the petitioner dated 20/06/1960 showing his caste as 'Rajput Bhamta'. Apart from this, there is caste validity certificate issued by the Caste Scrutiny Committee in respect of the uncle Deepak Rawat, showing his caste as 'Rajput Bhamta'. If genealogy of the family is not in dispute and caste certificate has been issued to close paternal relations, claim of other close relations must be upheld. The Scrutiny Committee invalidated the claim on the ground that the caste 'Rajput Bhamta' is written in different ink and handwriting in respect of documents pertaining to Gangusingh Moonsing Rajput Bhamta and Ashoksing. It is held by the Scrutiny Committee that the school leaving certificate in respect of

grandfather of the petitioner, the caste is mentioned as 'Bhamta Rajput' against column of caste. Observing that there is no such caste 'Bhamta Rajput' and it is 'Rajput Bhamta' discarded the document. The said certificate shows that the date of admission is 10/09/1950, thus caste is recorded in the year 1950. The caste claim is also invalidated on the ground that the petitioner has not proved his affinity and linkage towards 'Rajput Bhamta' (VJ). While invalidating the claim of the petitioner, the Caste Scrutiny Committee failed to appreciate that in respect of uncle of the petitioner Aurangabad, Bench of this Court concluded this issue. Similar objections were raised by the Committee while invalidating the claim of the uncle Deepak of the petitioner in Writ Petition No. 4755/2003. Petitioner relied on same documents on which the present petitioner is relying. This Court observed in paragraph No.7 as under :

7. The original 'C' Register of Vajirabad is produced before us. At r. no. 77, it bears the entry of one Gangusinha Munnasinha, grand-father of the petitioner. The caste Rajput Bhamta is mentioned below the entry of his name. It appears that all the entries on the said page are in the handwriting of same person. In such circumstances, it is very difficult to hold that, the entry was made afterwards for the purposes of the caste certificate.

8. In such circumstances, there was no reason for the Scrutiny Committee to doubt the petitioner's caste, Rajput Bhamta (V.J.). We have already seen that, there is no reason to doubt the genuineness of all these documents. Therefore, the Scrutiny Committee was wrong in holding that, the petitioner did not belong to Rajput Bhamta (V.J.). The impugned order is manifestly illegal and, as the same resulted in failure of justice, our interference is called for in exercise of Art. 226 of the Constitution of India.

9. So far as affinity is concerned this Court observed in paragraph No.4 as under :

4. What we find from the findings recorded by the committee is that the Committee has classified documentary evidence in different groups. Firstly, it is seen that the Vigilance Cell had properly made enquiry in this matter and submitted the report. It does not appear that the petitioner did not have any basic knowledge about the characteristics, customs and the culture of the Rajput Bhamta (V.J.). In such circumstances, it will be wrong to say that, the petitioner failed to prove his affinity and those linkage towards Rajput Bhamta (V.J.).

Attempt was made to show that petitioner could not establish, with satisfactory evidence that he belongs to Rajput Bhamta (V.J.). The petitioner has produced on record voluminous documentary evidence, which is classified and consider as under :

(i) The petitioner, in order to substantiate his case that he belongs to Rajput Bhamta (V.J.) has produced on record his caste certificate, sworn statement and school leaving certificate.

(ii) From the extract of school admission register, issued by the Headmaster,

Gandhi Rashtriya Vidyalaya, Nanded, dt.1.7.1950, it is seen that the caste of petitioner's father is shown as Rajput Bhamta.

(iii) The school leaving certificate, the abstract from school admission register issued by the Headmaster, Gandhi Rashtriya Vidyalaya, Nanded, dt.1.7.1971, the sworn statement, caste certificate issued by the Tahsildar and Executive Magistrate, Nanded, dt.7.9.1993, etc go to show that the caste of petitioner's sister is shown as Rajput Bhamta.

(iv) The caste certificate of cousin of petitioner is issued by the Executing Magistrate, Nanded. Dt.1.9.1981 and by abstract of the school admission register issued by the Headmaster, Gandhi Rashtriya Hindi Vidyalaya, Nanded. Dt.20.8.1963, show that the caste of cousin of petitioner is Rajput Bhamta.

(v) The school leaving certificate issued by the Headmaster, Rashtriya Hindi Vidyalaya, Nanded. Dt.12.6.1989, abstract of school admission register issued by the Headmaster dt.12.6.1989, caste certificate issued by the Executive Magistrate, Nanded, dt.13.7.1995, and the caste certificate issued by the Sub Divisional Magistrate, Nanded, dt.20.6.1998 show that the caste of the son of cousin of petitioner is Rajput Bhamta.

(vi) The caste certificate issued by the Sub Divisional Officer, Nanded, of the daughter of cousin of petitioner shows that she belongs to Rajput Bhamta.

(vii) The abstract of Appendix "C" Patrak of Vajirabad dated 16.4.2003 issued by the Awwal Karkun, Tehsil Office, Nanded, in the name of grand father of the petitioner shows his caste as Rajput Bhamta.

10. Accordingly the uncle of the petitioner Deepak was issued with validity certificate. The judgments so referred above have concluded that the paternal side relatives' caste validity certificate, unless quashed and set aside, must be relied upon, as held in Mukesh (supra), Milind Shirsath (supra), Bharat Bhagwan Taude (supra) Mayuri Pandhare (supra) and Apoorva Nichale (supra).

When caste validity certificates have been granted to close blood relatives on the paternal sides the claim of other close relations ought to be upheld. It is only in case where the earlier caste validity certificate of close blood relations are shown to have been obtained by fraud/fabrication, a detail scrutiny and verification of the claim is required to be undertaken. As discussed above this Court already held by calling original documents that the documents relied on cannot be said to be fabricated and the said order has become final and conclusive.

11. Thus, tribe validity certificate granted to the uncle of the petitioner is a conclusive proof of the social status and it confirmed the genuineness of social status, status claimed by that person. A document which stands as a conclusive proof for one person would also stand as a conclusive proof of social status of another person if such other person is paternal relatives of the first person possessing the validity certificate. The relatives from paternal side cannot be members of different caste or tribe and must be considered to be in law as

having same caste or tribe or community to which their common ancestral from paternal side belongs. Thus, we find that there was no reason for Caste Scrutiny Committee to reject the validity certificate granted to Deepak Rawat and they ought to have been accepted as conclusive proof of status of the petitioner as he belongs to 'Rajput Bhamta' (VJ). Considering the documents and validity certificate placed on record, we find that petitioner has proved his claim as belonging to 'Rajput Bhamta'. Accordingly, we pass the following order

ORDER

1. The writ petition is allowed.
2. The impugned order dated 31/03/2018 passed by the Divisional Caste Certificate Scrutiny Committee No.3, Nagpur Division, Nagpur, respondent No.2 is hereby quashed and set aside.
3. The respondent No.2 is hereby directed to issue validity certificate to the petitioner that he belongs to 'Rajput Bhamta' (VJ) within a period of four weeks from the receipt of the copy of the order.

Rule is made absolute in the above terms. No order as to costs.