
(2002) 02 BOM CK 0052

In the Bombay High Court

Case No : Writ Petition No. 4449 of 2001

Snehal Vijaysingh Thoke

APPELLANT

Vs

State of Maharashtra and Others

RESPONDENT

Date of Decision : 27-02-2002

Acts Referred:

Constitution of India, 1950 — Article 341, 342
Evidence Act, 1872 — Section 21

Citation : (2002) 5 BomCR 570

Hon'ble Judges : N.V. Dabholkar, J

Bench : Single Bench

Advocate : P.R. Patil, for the Appellant; A.B. Bajpai, A.G.P., for the Respondent

Final Decision : Dismissed

Judgement

N.V. Dabholkar, J.—Heard. Rule. By consent, rule is made returnable forthwith.

2.By this writ petition under Article 226/227 of the Constitution of India, the petitioner challenges the judgment and order dated 20-10-2000 passed by the respondent No. 2 Scrutiny Committee for verification of the caste certificates issued in favour of the persons belonging to the Vimukta Jati. By the impugned order, the committee has declared invalid, the certificate No. 95/MISC/W/1213 dated 22-4-1993 issued by the Executive Magistrate, Georai, in favour of the petitioner, certifying that she belongs to V.J. (Rajput Bhamta).

2.The petitioner is a first year student of Medical College. According to her she belongs to Rajput Bhamta Caste. At the time of her admission in Yogeshwari Nutan Vidyalaya, Ambajogai, District Beed, her caste was recorded as Rajput Bhamta in the school record. While she was studying in XI standard her caste claim was sent for verification to the Scrutiny Committee. Earlier the Scrutiny Committee, after obtaining a report from Social Welfare Officer, had invalidated the caste claim of the petitioner. The petitioner approached this Court by Writ Petition No. 428 of 2000 because that decision was without calling for a report

from the Vigilance Committee. By the judgment dated 26-11-1999, this Court set aside the judgment of the Scrutiny Committee and further directions were issued to redetermine the caste claim of the petitioner, only after obtaining the report from a Vigilance Committee.

As per directions of the High Court, the Scrutiny Committee obtained a report from the Vigilance Committee and thereafter, issued notice dated 2-9-2000 to the petitioner. The caste claim was thereafter, invalidated by the impugned order.

3.The committee, by the impugned order has taken into consideration as many as 26 documents, in support of the caste claim, either submitted by the petitioner or received by the committee, along with report of the Vigilance Cell. It took a note that in the school record of the father of the petitioner, his caste is recorded as Hindu. The same was recorded as Hindu (Rajput Bhamta) in his higher medium school record. The enquiry revealed that the portion "Rajput Bhamta" was added by Secretary Shri Shankar Hanumant Chilka, on the basis of the application of the father dated 30-8-1999 accompanied by the affidavit. The service record of the petitioner's father showed his caste as Hindu (Rajput) (Rajput Bhamta). However, this entry was taken on the basis of caste certificate obtained by the father on 24-3-1993.

It has also taken a note that the school record of the petitioner as well as her cousin records their cast as Rajput Bhamta and caste claims of second degree cousins of petitioner, namely Shital Bhausingh Thoke and Yogita Bhausingh Thoke of belonging to Rajput Bhamta caste are held valid by the Scrutiny Committee in the years 1996-97 and 1998-99 respectively.

The committee in its order, relied upon the observations of Apex Court in the case of Kumari Madhuri Patil to the effect that the entries in the school record of father of the petitioner are an important piece of evidence and arrived at a conclusion that father, in order to obtain benefits available to the scheduled tribe has manipulated his school record by the application dated 30-8-1999. According to the committee, this was evident from the fact that prior to this application, father's caste in the school record was recorded as Hindu (Non Backward Class). According to the committee, favourable entry in the service record of the father taken on the basis of the certificate in his favour issued by the Executive Magistrate, Gevrai on 24-3-1993 stood on no better footing, in view of the facet that Rajput Bhamta was declared to be Vimukta Jati by the Government decision dated 21-11-1961 and there was not a single piece of evidence, registering the caste of the petitioner or her ancestors to be Rajput Bhamta prior to this date.

According to the committee, school records of grand father and paternal uncles, were not available because they were un-educated. The old record about criminal tendency was also not available in police record. The certificate certifying the caste to be Rajput Bhamta pertaining to the petitioner, her sisters, brothers, father etc. were issued on the same day i.e. 22-4-1993 and 24-4-1993 by the Executive Magistrate, Gevrai.

Thus, according to the committee, the strongest and oldest piece of evidence favourable to the caste claim was the entry in school record dated 13-7-1985 of the caste of the petitioner to be Rajput Bhamta which was contradicted by her father's school record. The petitioner did not possess any document of a date prior to 13-7-1985, which could have been strong and reliable piece of evidence. In view of these observations, the committee declared the caste certificate issued in favour of the petitioner to be invalid.

4. According to Shri Patil, learned Counsel for petitioner, the Scrutiny Committee has not given due weightage to the report of the Vigilance Committee, which was available on the record and favourable to the petitioner. He has placed reliance on certain observations in the report of the Vigilance Committee and more particularly the validation of the caste claims of Yogita and Shital, who are blood relations of the petitioner. According to him, the portion of Vigilance Cell report about the home enquiry contains statements of people in the locality supporting the caste claim of the petitioner, more particularly, when it was narrated to the Vigilance Cell that the family speaks dialect called :Dangori" and that in the past, there was tradition to the effect that a son could not marry unless he had committed a theft. According to Shri Patil, therefore, Scrutiny Committee has totally ignored the observations of the Vigilance Cell. The petitioner has produced at Exhibit "F", paper book page 19, a letter of 4-1-1997 from the Police Sub-Inspector Mehunbara Police Station, addressed to Rajendra Mansingh Patil, regarding the past record of conviction of Zulal Devsing Patil, Maru Devsing Patil and Nayansingh Harsingh Rajput, who are according to Rajendra, cousins of Mansingh Rajput, a maternal cousin of the petitioner's grand father, as reported by the Vigilance Cell.

It was also pleaded that the petitioner was not given an opportunity of being heard by the committee.

So far as the school record of the father, which is adverse to the caste claim, Shri Patil tried to explain by contending that the father who was born in the year 1950, could have been admitted to the school in the year 1957 or so, when this particular caste was not declared to be Vimukta Jati and therefore, the father or his parents might not have been very keen to record his caste with accuracy.

5. While defending the impugned order, the learned Assistant Government Pleader urged that since the petitioner was invited by the committee with a notice, accompanied by the copy of report of the Vigilance Cell, it is not open for the petitioner to claim that he was not given an opportunity of being heard. According to the learned Assistant Government Pleader, there is nothing on record to show that the petitioner had claimed such an opportunity and the same was refused.

According to him, beyond affidavits and certificates of the petitioner or her relatives, there is no neutral or third party evidence to support the caste claim, and even the validated caste certificates are recent in terms of time factor, which

cannot supersede the effect of earlier school record of the father. According to the learned Assistant Government Pleader, the pieces of evidence favourable to the caste claim are of distant relatives as compared to the evidence against the caste claim, which is relating to the petitioner's father.

According to the learned Assistant Government Pleader, the details in the report of the Vigilance Cell are in general terms and not specifically referring to the family of the petitioner and therefore, have minimal probative value.

It was urged by the learned Assistant Government Pleader that the Scrutiny Committee are established with a view to prevent the unscrupulous members of the society, who are not entitled to benefits of the constitutional and statutory reservations, from extracting such benefits on the basis of manipulated certificates and therefore, the Caste Scrutiny Committee will be justified in rejecting the claims in the cases of slightest doubts. The standard of proof for validation of caste claim, although may not be "proof beyond all reasonable doubts" as required in a criminal trial but the same ought to be and is much stringent than mere preponderance of probability or better possibility. The school record of the father, which is adverse to the caste claim, according to the learned Assistant Government Pleader, therefore does not stand superseded by any of the remaining pieces of evidence and therefore, the order of the Scrutiny Committee calls for no interference.

6. Advocate Shri Patil has placed reliance upon the observations of this Court in the case of Mahesh Bhalchandra Thakur Vs. Scheduled Tribe Certificate Scrutiny Committee, Maharashtra, . In para No. 3 of the judgment this Court observes as follows :

"It should not be forgotten that individuals social status claim is a constitutional guarantee and enquiry into that claim should be strictly held in accordance with the procedure laid down by the law, in all seriousness and solemnity. A very valuable fundamental right of the public employment conferred under Article 16 of the Constitution of India, on the citizens belonging to Scheduled Castes/Tribes categories, wholly depends on the said social status claim which are entrusted to the Scrutiny Committee for verification. It is needless to say that any mistake or negligence in examining the social status claim would deprive such a person of his fundamental right and would certainly deny him the employment or he would loose the job if already in the employment. A wrong decision of the committee might even permit wrong claim of wrong person, depriving genuine person of his legitimate claim. This must never happen. These claims should not be decided casually or lightly."

Without disagreeing with the principle laid down that the Scrutiny Committee should be very careful in deciding the caste claims, it may be added that the grant of a caste certificate to a bogus claimant i.e. an individual who does not belong to a particular reserved category would certainly result into denial of the seat to a professional course or an employment in a Government department to

a person who is entitled to the same. At the same time, it must be borne in the mind that the denial of caste claim of a genuine claimant i.e. an individual who belongs to a reserved category may result into lesser evil. This is because, in case genuine caste claim is denied, seat/post would still remain for the reserved category and no individual belonging to other category will be in a position to occupy the same. Thus it can be visualised that the grant of certificate of belonging to reserved category to a bogus claimant is a greater evil than refusal of certificate to a genuine claimant. The first one results into reserved seat/post being totally denied to any of the deserving candidates from the reserved category, whereas, the later results into denial of that seat to a person possibly belonging to the reserved category, but whose case comes under the cloud. At the same time, the seat/post would certainly go to other deserving candidate of the reserved category. In the later case, the spirit of constitutional and statutory reservations will not be observed in the breach, whereas, such a breach is certainty in the first one.

In view of these circumstances, it may not be out of place to say that the standard of proof for establishment of caste claim ought to be stringent. Although it may not be as stringent as in the criminal trial i.e. proof beyond all reasonable doubts, it also cannot be as light as "preponderance of probability" or "better possibility". The submission of the learned Assistant Government Pleader to that effect has quite a good substance.

7. While dealing with the orders of the Caste Scrutiny Committee under challenge in a Writ Petition under Article 227 of the Constitution of India, the scope of such petitions as laid down by the Supreme Court in the case of *State of Maharashtra v. Milind*, 2001(1) Bom.C.R. 620 : 2001(1) S.C.C. 04 must be borne in mind. It was observed that the power of High Court under Article 227 of the Constitution of India while exercising the power of judicial review against the order of inferior Tribunal being supervisory and not appellate the High Court would be justified in interfering with the conclusion of the Tribunal only when it records a finding that the inferior Tribunal's decision is based upon the exclusion of such admissible evidence or consideration of inadmissible evidence or the inferior Tribunal has no jurisdiction at all or that the finding is such that no reasonable man could arrive at on the materials on record.

8. Shri Patil, learned Advocate for the petitioner has relied upon the case of *Mahesh Thakur* (supra) for one more purpose. In the reported case, although the scrutiny committee consisted of three members, only one member was present at the time when the petitioner was heard and interviewed in support of his social status claim. In view of these facts, this Court held that there was material defect which went to the root of the question in considering the social status claim of the petitioner and therefore, the decision suffers from legal infirmity.

Amongst the grounds challenging the impugned order, it is contended by the petitioner that the petitioner was never given hearing by all the three members of the committee. Only the Divisional Social Welfare Officer accepted the

documents submitted by the petitioner. Pleadings in the petition to some extent are ambiguous. In fact the grievance is that no hearing was given at all. At the same time, pleadings are so worded as if hearing was not given by all three members together. Considering that the plea is of no hearing at all, the observations in case of Mahesh Thakur (*supra*), which are tried to be relied upon, are of no assistance to the petitioner.

In the case of Kumari Madhuri Patila and another Vs. Addl. Commissioner, Tribal Development and others, , the Apex Court has issued detailed instructions regarding the procedure to be followed for issuing the caste certificate and instructions at Sr. No. 6 in para 12 of the judgment, partly reads as follows :

"In case the candidate seeks for an opportunity of hearing and claims an enquiry to be made in that behalf, the Director on receipt of such a representation/reply shall convene the meeting of the committee and the Joint/Additional Secretary as a Chair Person should give reasonable opportunity to the candidate/parent/guardian to adduce all evidence in support of their claim."

On reference to the impugned order, it is evident that on receipt of the report from the vigilance cell, the committee served a notice dated 2-9-2000 upon the petitioner, calling upon her to explain as to why the caste claim may not be invalidated. In response to the said notice, no explanation at all was tendered by the petitioner and committee had ultimately proceeded with the papers available in the file, which included the certificates etc. submitted by the petitioner during the course of enquiry, earlier on 18-4-2000 and the material received from the vigilance cell. It is not the case of the petitioner that either on earlier occasion or on present occasion, after receipt of the notice from the Scrutiny Committee any desire of an opportunity of being heard was expressed, either orally or in writing. Therefore, the contention that the petitioner was not given hearing by the committee of three members is not a ground sustainable to successfully challenge the decision of the Scrutiny Committee.

9. The committee has considered in all 26 documents, out of which, document at Sr. No. 20 is the School Leaving Certificate of petitioner herself, which indicates that in the school record, her caste is recorded as "Hindu Rajput Bhamta" on 14-6-1993 i.e. the day of the entry in the school. This entry itself will have to be considered to be under scrutiny. This is because, the entry is post dated; the caste certificate in favour of the petitioner having been issued by the Executive Magistrate, Gevrai on 22-4-1993.

The documents at Sr. Nos. 1 and 2 are pertaining to the entries regarding the caste of the petitioner's father. Sr. No. 1 is the school leaving certificate from the school, through which he passed his S.C.C. (XI) standard and on the date of entry to the school i.e. on 2-6-1969 his caste was recorded as Hindu. It has come in the report of Vigilance Cell that the entry "Rajput Bhamta" was added in the record of this school on the basis of the application by the father dated 30-8-1999. The document at Sr. No. 2 is adverse to the claim of the petitioner,

without requiring any explanation. This is the school leaving certificate of the primary school issued on 3-6-1969 which records the caste of the father as "Hindu Non B.C.".

The documents at Sr. Nos. 3 to 9, 11, 13 to 16, 21, 24 and 25 stand practically on equal footing. These are the school leaving certificates of the relatives of the petitioner and the list includes, cousins (brothers and sisters), paternal uncle of first degree and second degree, so also real sister. All these relatives have their date of entry in the school ranging from June-July 1981 to June-July 1984. The certificate Sr. Nos. 24 and 25 are of June 1993 and December 1998. All these certificates at the most, can establish that at the time of entry of these students in the respective classes, they had informed their caste to be Rajput Bhamta, which period is of 1981 and thereafter.

Documents at Sr. Nos. 10 and 12 make an interesting reading. Sr. No. 10 is school leaving certificate of Ramdas-cousin of the petitioner. His date of entry in the school is 20-6-1981 and his caste is recorded as "Hindu Rajput". As against this, certificate at Sr. No. 12 is one issued by the Executive Magistrate, Bhadgaon, District Jalgaon in favour of said Ramdas on 16-2-1983, which certifies him to be "Rajput Bhamta". It is not possible to know as to on what basis such certificate was issued by the Executive Magistrate, but only inference that can be drawn is that the said certificate was issued without proper care and verification.

Similarly, in the light of school record of father, the certificate issued in his favour by the Executive Magistrate, Gevrai also invites such an inference. The document at Sr. No. 18 is the certificate issued by the Executive Magistrate, Gevrai, on 24-3-1993, certifying father of the petitioner to be Rajput Bhamta. Again it is not possible to ascertain as to on what basis such certificate was issued but in all probability, it could have been on the basis of the application supported by the affidavit sworn by the father. When we refer to the documents at Sr. Nos. 1 and 2, which are entries regarding the caste of the father in the school record, effected as back as in the year 1969, he was recorded as belonging to "Hindu Non B.C." and addition "Rajput Bhamta" in the school record of his higher secondary school has come into existence only as a result of his application dated 30-8-1999. It is obvious that when the Executive Magistrate Gevrai issued a certificate, the school record of the father, did not support such a certificate and it must be said that the Executive Magistrate has issued the certificate dated 24-3-1993, without proper enquiry. Infact, on the strength of this certificate, father got his caste entered in the service record with Maharashtra State Electricity Board as Rajput Bhamta, as is evident on reference to paragraph No. 5 of the report of the Vigilance Cell.

The observations of the Scrutiny Committee that the certificates of father, brother and sisters of the petitioner are issued on the same day appear justified. The certificates in favour of sister Neelam, brother Sidharth and petitioner herself are issued on 22-4-1993. These are issued within a month after father procured

a certificate on 24-3-1993 and it can be confirmed from the certificate in favour of the petitioner that it was issued on the basis of the affidavit of the father, school leaving certificate and certificates by Talathi and Gram Panchayat.

Documents at Sr. Nos. 22 and 23 are pertaining to Gansingh Pawar, said to be maternal grand father of the petitioner. The first one is the certificate issued in his favour by the Executive Magistrate on 4-10-1985 and the second is the extract from his service record. First one records the caste as Rajput Bhamta and in the service record, entry is to the effect "Hindu Rajput (Bhamta Rajput)". There is thus reason to believe that in the service record his caste was initially recorded as Hindu Rajput and bracketed portion was added only after the certificate dated 4-10-1985 is available.

10. The documents at Sr. Nos. 1, 2, 18 and 26 which are pertaining to the entries regarding the caste of the father of the petitioner are the entries which make a very strong adverse impact upon the caste claim of the petitioner. Although Rajput Bhamta was recognised as Vimukta Jati under the Government Resolution dated 21-10-1961, these four documents read together clearly indicate that till 1993, there was no attempt on the part of the father to get the entries regarding his caste corrected. This time gap is required to be pointed out in reply to the argument by the learned Counsel Shri Patil that the entries in the school record of the father must have been effected in 1957, because he born in 1950 and as there was no recognition of Rajput Bhamta as Vimukta Jati in the year 1957, the caste might have been casually entered. If that be so, atleast from 1961 onwards, there was recognition as reserved category-Vimukta Jati, by constitutional and statutory provisions. Yet for as many as 32 years, since recognition, father made no attempt to get his caste recorded as Rajput Bhamta. Infact, he entered the second school in June 1969 and that time also he has registered his caste as "Hindu". The addition of "Non B.C." in the primary school record is of significant importance. The argument advanced by Shri Patil that out of ignorance and since there were no benefits available the parents of father might have recorded his caste as "Hindu" or "Hindu Rajput" is not sustainable in view of this addition "Non B.C." in the primary school record. On the face of documents at Sr. Nos. 1 and 2, the certificate issued by the Executive Magistrate, amendments in the school record and the service record, lose their evidentiary value, if any.

11. Naturally, it is required to be considered, if other documents are capable of rebutting/nullifying the adverse impact on the caste claim, caused by these four documents, pertaining to father of the petitioner and the answer is in negative. All documents, Sr. Nos. 3 to 9, 11, 13 to 16, 21, 24 and 26 are the entries effected in June 1981 or thereafter i.e. twenty years since recognition of Rajput Bhamta as Vimukta Jati. A possibility cannot be ruled out of people belonging to the caste having simile in the name to caste "Rajput Bhamta" proclaimed as Vimukta Jati, having become aware of possibility of benefit of the same. In any case, on the face of adverse entry prior to recognition and continued after

recognition, the entries effected twenty years after recognition, on the basis of the information furnished by the applicants/claimants, cannot carry so strong probative value as to nullify the effect of entries earlier in time.

As a principle of appreciation of evidence, the statement by a person adversely affecting his interest carries sanctity, as against his statement favouring his interest, which is required to be accepted with all caution and with a pinch of salt. The statement affecting interest adversely, stands on equal footing with "admission". The statement serving the purpose of maker ought to be accepted only after close scrutiny and only if, the same is supported by external independent evidence.

Section 21 of the Indian Evidence Act reads as follows :

"21. Proof of admissions against the persons making them and by and or on their behalf.---Admissions are relevant and may be proved as against a person, who makes them, or his representative in interest; but they cannot be proved by or on behalf of the person who makes them or by his representative in interest, except in the following cases :

- (1)
- (2)
- (3)"

It is evident from section 21 that the admissions can be proved against the person making it, as a rule. But admission can be proved in favour of a person making it only in exceptional circumstances and the three exceptional circumstances prescribed are death of the person making admission or when admission consists of statement as to existence of any state of mind or body and is accompanied by conduct rendering its falsehood improbable or if admission is relevant otherwise than as an admission.

The entries in the school record are generally made on the basis of information furnished by the guardian on behalf of student. Taking this into account, entries in the school record of father stand on the different footing as "admission against the interest of the maker", whereas, the statements in the school record of all others, in which they are narrated to be belonging to Rajput Bhamta caste and thereby claiming to be entitled to the benefits of reservations are "admissions in favour of the maker". If the two pieces of evidence are to be considered strictly in accordance with the Evidence Act, the favourable statements are not at all admissible in evidence. However, taking into consideration that the enquiry by Scrutiny Committee is not a criminal trial, although the certificates of cousins (brothers and sisters), uncles etc. may not be thrown away as inadmissible, they have very low probative value.

The certificates issued by the Executive Magistrate in favour of the father, petitioner, her sisters and brother and cousins i.e. documents at Sr. Nos. 12, 17,

18, 19 and 22 cannot be treated on any better footing, in the absence of the details on the basis of which those were issued. Ordinarily it will have to be presumed that those were issued on the basis of the application, affidavit or at the most certificate, such as school leaving certificate.

It is pertinent to note that the entry in register, such as birth register, indicating the caste of the child as entered by the parents, immediately on birth, is conspicuous by absence in the record produced before the committee.

To sum up, none of the documents produced before the committee are capable of rebutting or nullifying the effect of adverse impact on the caste claim of the petitioner that would be caused by the school/service record of her father in the form of documents at Sr. Nos. 1, 2, 18 and 26.

12.The documents at Sr. Nos. 22 and 23 pertaining to Gansingh Pawar, apart from being of recent origin, after a gap of nearly 25 years, since recognition of Rajput Bhamta is Vimukta Jati; stand on further weak foundation, in view of the fact that Gansingh Pawar is a maternal relation of the petitioner. He is father of the petitioner's mother. Even if the mother of the petitioner may come from family belonging to Rajput Bhamta. By that, there cannot be a presumption that petitioner belongs to caste Rajput Bhamta and ordinarily the caste of the children is recorded same as the caste of the father.

13.Shri Patil, learned Counsel for the petitioner feels aggrieved because the scrutiny Committee has made no reference to the evidence in the form of criminal record to Zulal Devisingh Patil, Maharu Devisingh Patil and Nayansingh Harsingh Rajput produced in the form of letter dated 4-1-1997 addressed to Rajendra Mansingh Patil by Police Sub-Inspector, Mehunbara Police Station, although this letter along with the affidavit of Rajendra is recorded in the report of Vigilance Cell. The copy of letter is at paper book page 19 and copy of affidavit of Rajendra at page 46. It is evident from the letter of Police Sub Inspector that letter concludes with a caution that the addressee should establish his relationship with the persons, about whom Police have been able to trace out some criminal record. Rajendra Patil in his affidavit, has narrated that Zulal and Maharu arrested for crimes in 1938-39 as certified by Police Sub-Inspector Mehunbara, are maternal uncles of first degree cousin i.e. first paternal cousins of his mother. For supporting this statement, the affidavit does not contain sufficient genealogy. The affidavit also does not make any reference to one Nayansingh Harsingh Rajput, whose criminal record is also certified by same letter of Police Sub-Inspector Mehunbara. If Nayansingh is not related to Rajendra-affiant, it remains a mystery as to why the certificate of criminal history of Nayansingh was obtained from Police Sub-Inspector, Mehunbara. Zulal and Maharu were convicted as back as in 1939 and in the absence of complete genealogy establishing relationship with Rajendra, it is difficult to treat this certificate together with the affidavit of Rajendra to be so strong piece of evidence as to infer that the petitioner and her father come from the same tribe with criminal tendencies. That Zulal and Maharu are maternal relations of

Rajendra, according to his own affidavit, is further handicap against this particular evidence and Rajendra himself is son of maternal cousin of applicant's grand father. Thus from petitioner to Zulal and Maharu, there were two bridges of maternal relationship and therefore, the evidence pertaining criminal record of Zulal and Maharu is very low probative value evidence for the present matter.

14. Yogita and Sheetal, both daughters of Bhausing are second degree cousins to father of the petitioner. The vigilance cell discovered that both of them are issued certificates by the Scrutiny Committee regarding validity of their caste claims to be belonging to Rajput Bhamta caste. Similar certificate is also issued to affiant Rajendra Patil, who had come with the criminal record of Zulal and Maharu, his cousin maternal uncle.

In the light of validation of caste claims of second degree cousins (sisters) of petitioner's father, reliance was placed by Shri Patil on the observations of the Supreme Court in the matter of Gayatrilaxmi Bapurao Nagpure Vs. State of Maharashtra and others, . In this matter, as many as 17 documents were placed before the Scrutiny Committee. The documents at Sr. Nos. 1, 5, 6, 7, 8, 10, 13 and 15 were caste certificates issued to various relatives by various authorities. Sr. Nos. 2, 3, 4 were the school leaving certificates. Documents at Sr. Nos. 11 and 16 were marriage certificate and death certificate respectively of relatives in which the caste was entered and documents at Sr. Nos. 9, 12 and 14 were favourable orders of the Scrutiny Committee. The committee, while considering the claim and evaluating the probative value of the documents produced, did not refer to the certificate at Sr. No. 9, which was an order passed by the Government on appeal by the first cousin of the claimant in the matter of issue of caste certificate to him. The committee brushed aside that order by merely observing that the same was issued in a causal manner.

In the light of above circumstances, the Apex Court has observed as follows :

"Taking into consideration these certificates and also the order of the Government dated 1-9-1981, certifying that Avinash Prabhakar Nagapure, the first cousin of appellant belongs to Halba community, we are of the view that the rejection of the appellant's claim especially when there is no other evidence placed contra to suspect the proof produced by the appellant, and without appreciating the vital documents placed before the committee is not correct."

The Apex Court observed the decision of the Scrutiny Committee to be erroneous, because the order validating the caste claim was ignored by the Scrutiny Committee. However, in the reported case, there was nothing contra to challenge the said orders. In the present matter, although as many as three relatives are said to have been obtained validation of their caste claims, those stand contradicted by the school and service record of the father of the petitioner and therefore, the validation certificates in favour of the second degree cousins of the petitioner's father are not capable of conclusively establishing that the petitioner belongs to Rajput Bhamta caste. At the most it will have to be said

that when the claims of those relatives were examined by the Scrutiny Committee, there was nothing adverse to the claim on record of the enquiry.

15. During the home enquiry, statements of villagers were recorded. As rightly argued by learned Assistant Government Pleader, the villagers have given the details in general. Their statements are also capable of inference that their ancestors were observing the customs, traditions etc. those were prevailing amongst Rajput Bhamta. However, none of them have narrated any specific incident of such a custom or tradition being followed by the family of the petitioner or during the time of any direct ascendent of the petitioner. The learned Counsel Shri Patil was impressed by this part of the report which records that these people speak a dialect called "Dangori" or they speak "Rajasthani Hindi". I am afraid, the men speaks Kanada, does not necessarily mean that he has his origin in Karnataka. He may acquaint himself with the language, even by long stay amongst the people speaking the language/dialect.

16. For all reasons discussed above, the school leaving certificates or certificated obtained from Executive Magistrate, which were before the Scrutiny Committee, coupled with the validity certificates obtained by the second degree cousins of the father of the petitioner, the statements by some villagers regarding the traditions and customs of Rajput Bhamta community being observed by 50% of the village to which the petitioner belongs, taken together, which are pieces of evidence with a very low probative value, are not capable of rebutting the adverse school record of petitioner's father, which has a very high probative value, being an admission against the interest of the maker. The Scrutiny Committee, therefore, does not appear to have committed any error in appreciating the material before it. It cannot be said that the committee has accepted the inference, which no prudent man would accept. The finding of the committee, therefore, calls for no interference.

17. The writ petition is, therefore, dismissed, rule discharged. No order as to costs.

Issuance of certified copy, out of turn, is expedited.