
(2004) 07 BOM CK 0010
In the Bombay High Court
Case No : Writ Petition No. 1823 of 1991

Vishnu Chaware	Vs	APPELLANT
Collector and Others		RESPONDENT

Date of Decision : 14-07-2004

Acts Referred:

Citation : (2004) 4 ALLMR 864 : (2005) 1 BomCR 258 : (2004) 4 MhLj 641

Hon'ble Judges : D.D. Sinha, J;B.P. Dharmadhikari, J

Bench : Division Bench

Advocate : K.V. Deshmukh, for the Appellant; B. Dangre, Assistant Government Pleader, for the Respondent

Judgement

D.D. Sinha, J.—Heard Shri Deshmukh, learned Counsel for the petitioner, and Mrs. Dangre, learned Assistant Government Pleader for the respondents.

2. Shri Deshmukh, learned Counsel for the petitioner, states that the petitioner was selected from the open category and appointed as Talathi on 13-8-1971 at Dahegaon. On 6-7-1981 petitioner obtained caste certificate from Tahsildar, Nandura to the effect that petitioner belongs to "Mahadeo Koli" (Scheduled Tribe). It is submitted that on the basis of the said certificate, petitioner applied to the respondent No. 2 for change of entry in the service book. On 25-9-1985, Tahsildar, Nandura conducted enquiry and after necessary enquiry, found that petitioner belongs to "Mahadeo Koli" (Scheduled Tribe).

3. Learned Counsel Shri Deshmukh further submits that another enquiry was conducted in respect of caste certificate of the petitioner by Sub-Divisional Officer, Malkapur and after necessary enquiry, it was again found that petitioner belongs to "Mahadeo Koli" (Scheduled Tribe). It is contended that on 29-12-1987 petitioner was promoted to the post of Revenue Inspector and on third occasion, once again Tahsildar, Khamgaon initiated enquiry in respect of caste certificate of the petitioner. It is submitted that Tahsildar, Khamgaon after necessary enquiry, once again found that petitioner belongs to "Mahadeo Koli" (Scheduled Tribe)

and certificate in this regard is genuine.

4. It is contended by the learned Counsel for the petitioner that Divisional Commissioner, Amravati Division issued letters dated 1-6-1990 to all the Collectors in the Division and asked them to look into caste claims of the candidates belonging to Scheduled Tribe before referring the matter to the Caste Scrutiny Committee constituted by the Government Resolution dated 23-1-1985, on certain grounds. It is submitted that the Collector vide impugned order dated 2-7-1991 invalidated the caste claim of the petitioner and being aggrieved by the said decision, petitioner was constrained to file the present petition.

5. Learned Counsel Shri Deshmukh states that the impugned order passed by the Collector suffers from lack of jurisdiction since jurisdiction to verify caste claim of the petitioner vested in the Caste Scrutiny Committee constituted in view of Government Resolution dated 23-1-1985. It is submitted that after Caste Scrutiny Committee is duly constituted in view of above referred Government Resolution, caste claims of the candidates belonging to Scheduled Tribe are required to be verified by the said Committee alone and there was no other Authority, which was otherwise eligible and competent to consider the caste claims of the Scheduled Tribe candidates. It is, therefore, contended that the impugned order is without jurisdiction and needs to be quashed and set aside.

6. Mrs. Dangre, learned Assistant Government Pleader for the respondents, states that the collector has conducted necessary enquiry about genuineness of the caste certificate of the petitioner in view of directions issued by the Divisional Commissioner vide letter dated 1-6-1990. However, aspect of constitution of Caste Scrutiny Committee in view of Government Resolution dated 23-1-1985 is not denied.

7. We have considered the contentions canvassed by the learned Counsel for the parties and perused the above referred Government Resolution dated 23-1-1985. The relevant portion of the Government Resolution reads thus:

"On creation of the new Department, i.e. Tribal Development Department from 1st May, 1983, the question of appointing a separate Scrutiny Committee for verification of Caste Certificates of Scheduled Tribes was under consideration of Government. Government is now pleased to direct that in partial modification of the orders quoted in the preamble, the following Scrutiny Committee should be appointed with immediate effect for verification of Caste Certificates of Scheduled Tribes :

Clause 2 of the Resolution, which is also relevant for the purpose, reads thus :

"2) This Scrutiny Committee will do the following work :

(i) Verify the caste certificates of Scheduled Tribes students seeking admissions in different educational institutions at different levels.

(ii) Verify the Caste Certificates of Scheduled Tribes recommended by the

Maharashtra Public Service Commission and different Selection Boards appointed by the Government for the seats reserved for Scheduled Tribes.

(iii) Verify the Caste Certificates of the Government Servants according to the requests or complaints made by the concerned Departments/Offices."

8. In view of above referred government Resolution, it is evident that from 23-1-1985 above referred Committee came into existence, which alone was competent to verify caste certificates of Government servants in view of sub-Clause (iii) of the Government Resolution according to requests or complaints made by the concerned Departments/Offices. In the instant case, the Divisional Commissioner vide letter dated 1-6-1990 directed Collector, Buldhana to consider the caste claim of the petitioner on the grounds mentioned in the said letter dated 1-6-1990 and the Collector acting on the basis of the said letter, ultimately invalidated caste claim of the petitioner as belonging to "Mahadeo Koli" (Scheduled Tribe). In view of Government Resolution dated 23-1-1985, letter dated 1-6-1990 issued by the Divisional Commissioner itself is without any legal sanction and de hors of the procedure contemplated by the Government Resolution dated 23-1-1985 for verification of caste certificates of Government servants of Scheduled Tribe category and by necessary implication, the order of the Collector acting on the basis of such letter of the Divisional Commissioner also suffers from same vice and cannot be sustained in law being de hors of the procedure contemplated by the Government Resolution dated 23-1-1985.

9. For the reasons stated hereinabove, the impugned order dated 2-7-1991 passed by the Collector, Buldhana is quashed and set aside. The matter is remanded to the newly constituted Caste Scrutiny Committee in view of Government Resolution dated 14-7-1997 for Verification of caste claim of the petitioner. The Caste Scrutiny Committee is directed to dispose of the caste claim of the petitioner as early as possible and in any case, not beyond the period of six months from the date of receipt of this judgment, after following the procedure contemplated in the Maharashtra Scheduled Caste, Scheduled Tribe, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of issuance and Verification of) Caste Certificate Act, 2000.

10. The rule is made absolute in the above terms. No order as to costs.