

Bombay High Court

Dr. Subhash S/O Uddhavrao ... vs The State Of Maharashtra, Through ... on 31 January, 2005

Equivalent citations: (2005) 107 BOMLR 923

Author: M Gaikwad

Bench: V Daga, M Gaikwad

JUDGMENT M.G. Gaikwad, J.

1. The petitioner preferred the present writ petition challenging the order dated 4.6.2004 passed by respondent No. 2 Scrutiny Committee whereby the petitioner's claim that he belongs to Rajput Bhamta caste (V.J.N.T.) is. invalidated.

2. The petitioner claims that he belongs to Rajput Bhamta caste which is notified as V.N.N.T. The Sub-Divisional Magistrate, Sailu issued certificate dated 31.8.1996 certifying that the petitioner belongs to Rajput Bhamta Community which is recognised as V.J.N.T. When he was studying in 12th standard in the year 1996-97, his caste claim was referred to the Caste Verification Committee for verification. Before the Committee, the petitioner has produced documents as well as affidavits of his relatives. After receipt of report of vigilance cell considering other documents the caste claim of the petitioner was invalidated and the Committee cancelled the certificate issued by Sub-Divisional Magistrate, Sailu by its order dated 18.10.1999.

3. The petitioner challenged the said order of the Scrutiny Committee by preferring Writ Petition No. 2876/2003. This Court by order dated 15.12.2003 set aside the Committee's order dated 18.10.1999 and the matter was remitted back to the Committee to decide the claim of the petitioner afresh by giving opportunity to the petitioner to produce additional evidence and also with direction to give personal hearing to the petitioner. Thereafter, respondent No. 2 Committee again invalidated the caste claim of the petitioner by order dated 4.6.2004. Being aggrieved with the said decision of the Committee, the petitioner filed present writ petition to quash and set aside the order of Committee and declare him to be of V.J.N.T. category.

4. Shri Bayas, learned Counsel appearing on behalf of petitioner made submission that this Court vide order dated 15.12.2003 granted liberty to the petitioner to produce additional evidence before the Committee and the Committee was directed to decide the matter afresh after considering-the additional evidence. The petitioner has produced additional documents in support of his claim but the Committee did not consider that additional evidence and without following the directions of this Court, his caste claim is invalidated, so the order of the Committee is not sustainable and needs to be set aside by allowing the present petition and remit the matter for fresh decision.

5. Smt. Gondhalekar, learned Assistant Government Pleader has produced the record of the Committee before this Court for perusal. She has also submitted that the Committee has considered the documents produced by the petitioner and the decision of the Committee to invalidate the claim do not suffer from any infirmity.

6. The grievance made by the petitioner is that the additional evidence produced by him is not at all considered by the Committee. He has pointed out that the petitioner had produced the birth extract

as well as extract of service book of his father but those documents were not considered. He also made submission that caste claim of his paternal uncle was validated by this Committee but the Committee did not consider their own decision. The Committee has not applied its mind and the decision of the Committee is not sustainable and the matter needs to be remitted back to decide the claim afresh.

7. The petitioner appeared before the Committee and produced documents and the Committee has accepted the said documents. The Committee in their order observed that the documents submitted by the petitioner were not sufficient to decide his caste claim in view of the report of the vigilance cell. The report of the vigilance cell appears to have been served on the petitioner. The main grievance of the petitioner is that the additional evidence i.e. birth extract of his father is not considered by the Committee.

8. On perusal of the record of the Committee, it was found that two birth extracts of the father of the petitioner were produced before the Committee, The date of birth of the father of the petitioner is registered In gram panchayat record on 4.1.1950. Column No. 11 of the extract is meant for recording religion of the parties. In one extract the religion of the petitioner's father was shown as 'Hindu'. In another extract in the same column in addition to religion 'Hindu' entry about the caste as "Rajput Bhamta" was found made. The learned Counsel for petitioner submits that this entry referring the caste of petitioner's father as Rajput Bhamta is made by the gram panchayat authorities on his representation during pendency of the enquiry. So, from this submission, it is clear that when initially this entry was recorded by gram panchayat in 1950 the caste of the petitioner's father was not shown but later on in the register on the petitioner's request, the entry about the caste is recorded. So this entry about the caste recorded on the representation made by the petitioner or his father cannot be relied upon as a proof of the petitioner's caste claim. As such, no fault can be found on the part of the Committee to discard this evidence.

9. The petitioner attempted to place reliance in support of his claim on an entry made in the service book of petitioner's father. In the service book his father's caste is shown as Rajput Bhamta. The Committee in their order observed that this document being of recent origin cannot be accepted as a valid piece of evidence for petitioner's caste. These observations of the Committee also cannot be said to be perverse or arbitrary.

10. According to petitioner, caste claim of his paternal uncle is validated by the Committee. His paternal uncle appears to have filed affidavit before the Committee stating that his caste claim is validated. But except the copy of affidavit no document appears to have been produced to show that P.T. Shisode was real paternal uncle of petitioner and his caste claim was validated by the Committee. Petitioner did not produce the caste certificate of P.T. Shisode before the Committee. The Committee observed that the petitioner has not produced the genealogy showing his relation with P.T. Shisode. When there was no proof before the Committee showing relations of petitioner with P.T. Shisode and in the absence of valid document, such as caste validity certificate of P.T. Shisode, the Committee was justified in not relying upon the affidavit filed by Mr. P.T. Shisode. The old documents i.e. birth entry of petitioner's father recorded in 1950 did not disclose the caste of the petitioner's father as Rajput Bhamta (V.J.N.T.). The Committee was justified in not accepting the

subsequent entry made in the birth register showing the caste of the petitioner's father as Rajput Bhamta which entry was manipulated during the pendency of the proceedings.

11. On considering the rival submissions as well as record, we are of the opinion that the petitioner failed to substantiate his caste claim as Rajput Bhamta (V.J.N.T.) before the Committee. There is no merit in the contention of the petitioner that the Committee has not considered the document produced by the petitioner. The decision of the Committee cannot be said to be illegal or perverse. There are no grounds to interfere with the findings recorded by Committee. The petition is without merit and needs to be dismissed.

12. In the result, petition is dismissed with no order as to costs.