



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

Writ Petition No. 4751/2019

Harshal s/o Shri Ramdas Mahure,
aged 17 years, Occ. Student, through its natural
guardian Ramdas Maroti Mahure, aged 63 years,
r/o. 23, Meher Colony, Wardha road,
Somalwada, Nagpur.

.... **PETITIONER**

// **VERSUS** //

1. The Scheduled Tribes Caste Scrutiny
Committee, through its Member Secretary,
Hyderabad House, Civil Lines,
Nagpur 440 001.
2. The Senior Director,
National Eligibility Entrance Test,
undergraduates C-20/1-A/8, Sector 62,
TITK, outreach Centre, NOIDA 201 309.

.... **RESPONDENTS**

Shri R. S. Parsodkar, Advocate for petitioner.
Shri A. M. Deshpande, Additional Government Pleader for respondent No.1.
Shri C. J. Dhumane, Advocate for respondent No. 2.

**CORAM: R. K. DESHPANDE AND
VINAY JOSHI, JJ.**

DATE OF RESERVING THE JUDGMENT :- 30.07.2019

DATE OF PRONOUNCING THE JUDGMENT :- 06.08.2019

JUDGMENT (PER VINAY JOSHI, J.)

Rule made returnable forthwith. Heard finally by consent of the learned counsel appearing for the parties.

2. The petitioner has approached this Court being aggrieved by the order passed by the respondent No. 1 – The Scheduled Tribes Caste Scrutiny Committee, Nagpur dated 26.06.2019 thereby, invalidating the claim of the petitioner as belonging to the caste of Dhangad – Scheduled Tribe (S.T.).

3. The Deputy Collector, Nagpur has issued a caste certificate dated 16.05.2018, in Form “C” to the petitioner about “Dhangad” caste which is an entry at Sr. No. 36 in the Constitution (Scheduled Tribe) Order, 1950. The petitioner has passed 12th Standard and desirous to pursue higher studies. As such, the claim of the petitioner came to be referred to respondent No. 1 for consideration of validity thereof.

4. Not being satisfied with the documentary evidence produced by the petitioner, the caste Scrutiny Committee forwarded the application along with documents to the Vigilance Cell in terms of

Rule 12(2) of the Maharashtra Scheduled Tribes (Regulation of Issuance and Verification of) Certificate Rules, 2003 for conducting necessary inquiry. On the basis of the information so collected, the Vigilance Officer submitted his report inter alia, reporting that the petitioner failed to establish his caste claim and during inquiry, the Officer did not find resemblance with the Dhangad – Scheduled Tribe. It is noticed that the caste claim of the blood relatives of petitioner of “Dhangad” caste has already been rejected. The Vigilance Officer further reported that the caste “Dhangar” which is N.T.(C) has been entered to the record of petitioner's blood relatives. Moreover, some of the blood relatives have obtained validity certificate of “Dhangar” caste which is different than the claim of Dhangad – Scheduled Tribe.

5. A copy of report of the Vigilance Cell was supplied to the petitioner by the Caste Scrutiny Committee and personal hearing was also granted. By an order dated 26.06.2019, the Caste Scrutiny Committee concluded that the petitioner does not belong to Dhangad – Scheduled Tribe. Aggrieved thereby, the petitioner has approached to this Court challenging the impugned order on various grounds inter alia praying for setting aside the impugned order and a direction to respondent No. 1 – Committee to issue caste validity certificate.

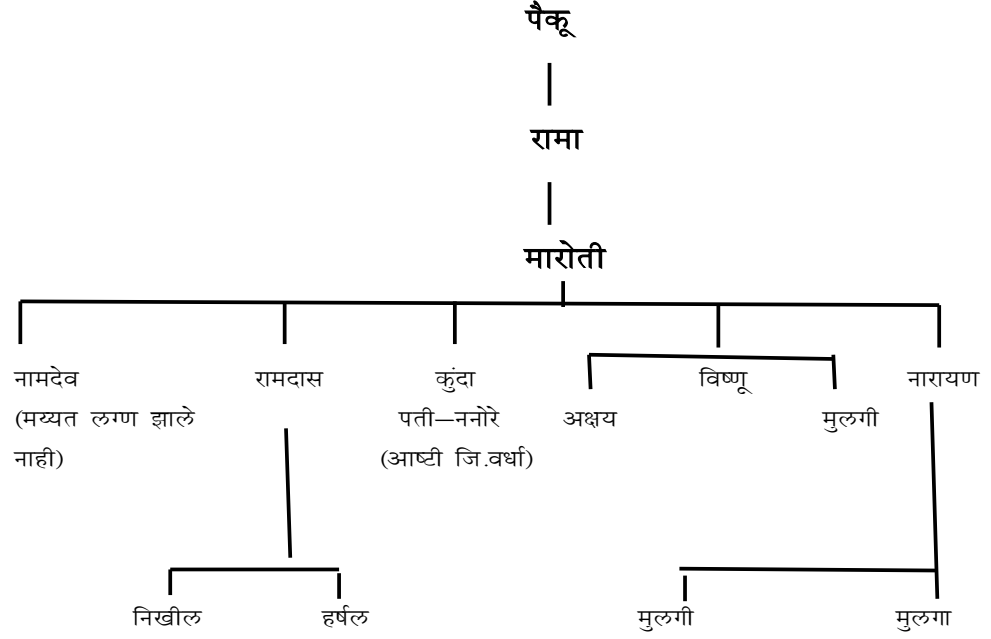
6. Heard Shri Parsodkar, learned counsel for the petitioner and Shri A. M. Deshpande, Additional Government Pleader for respondent No. 1. We have gone through the impugned Vigilance Cell Report and other documents tendered on record. Shri Parsodkar, learned counsel for the petitioner vehemently argued that there are pre-constitutional documents showing the “Dhangad” caste of petitioner's forefather however, it was ignored by the Committee. It is urged that the Committee erred in relying on the caste entry of “Dhangar” of some persons with whom the petitioner does not have any relationship. It is argued that the Committee without giving due weightage to old documents, had unnecessarily gave much importance to the affinity test and ultimately, recorded adverse findings.

7. Per-contra, Shri Deshapande, learned Additional Government Pleader for respondent No. 1 in support of impugned order, contended that the petitioner has suppressed the material facts. The caste claim of petitioner's nearer relatives including real uncle – Vishnu for “Dhangad” caste has been rejected by the Committee. Inasmuch as petitioner's uncle – Vishnu and some paternal relatives have obtained caste validity certificate of “Dhangar” caste which is

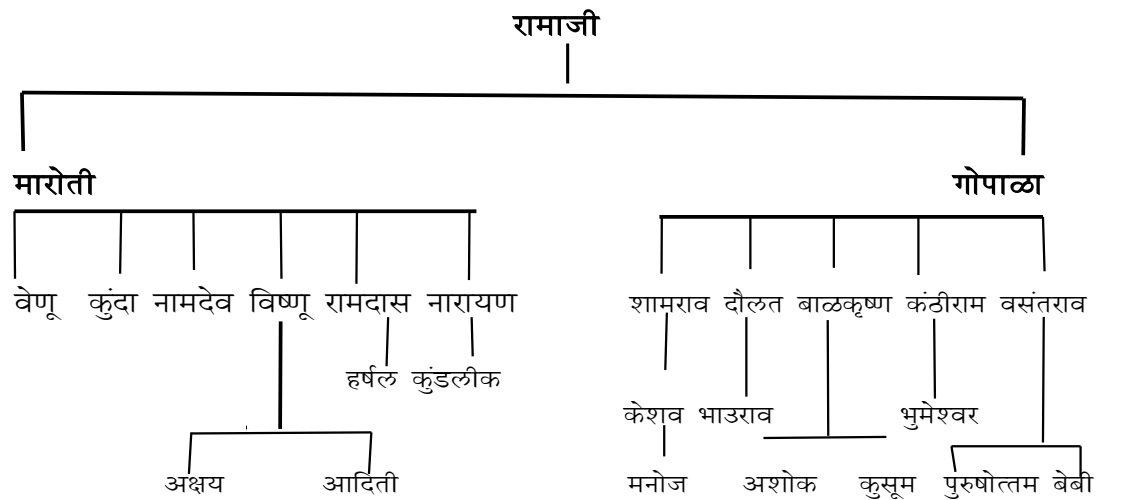
N.T.(C). It is urged that the petitioner with deceitful intention has denied his relationship with blood relatives whose caste was shown as “Dhangar”. Shri Deshpande, learned Additional Government Pleader has attracted our attention to some of the old documents collected by the Vigilance Cell showing that there are pre-constitutional entries of “Dhangar” caste to the record of petitioner's relatives namely – Shyamrao, Daulat, Maroti and Kanthiram. Finally, by supporting the reasons accorded by the Committee, he prayed for rejection of petitioner's caste claim.

8. Much reliance is placed by the petitioner on few documents of his blood relatives. So also, relationship with the persons whose caste is recorded to the old record as “Dhangar” has been denied. In order to appreciate the controversy in proper perspective, it would be advantageous to reproduce the genealogical tree as has been stated by the petitioner as well as revealed to Vigilance Cell.

Genealogy submitted by petitioner.



Genealogical tree prepared by Vigilance Cell on the basis of information collected.



9. The petitioner has produced in all 44 documents in support of his caste claim. Particularly, he relied on the copy of birth entry extract dated 20.06.1922 relating to his great grand-father – Rama Paiku, another birth entry extract of his grand-father – Maroti Rama dated 01.12.1941, settlement No. 11 extract of Maroti dated 22.06.1949 to show that caste “Dhangad” has been entered to said old record. Apparently, the petitioner's caste claim was based on these old documents. On perusal of birth extracts of the year 1922 and 1941, it reveals that the name is mentioned as Rama Paiku Dhangad and Maroti Ramaji Dhangad, but there is no column as regards to caste but the name is mentioned in such fashion. However, in settlement entry No. 11 extract, though there was no such separate column denoting the caste but below the name of petitioner's grand-father – Maroti, the caste is mentioned as “Dhangad”.

10. The Scrutiny Committee has evaluated these documents along with post-constitutional documents wherein caste “Dhangad” has been entered. However, the impugned order discloses that the Vigilance Officer has collected some pre-constitutional entries wherein caste “Dhangar” has been entered in the name of petitioner's

forefathers. Particularly, reference is made to birth extract of Shyamrao of the year 1937, extract of admission register of Kanthiram Gopala of the year 1944 wherein the caste has been entered as “Dhangar”. Shyamrao is claimed to be petitioner's cousin great-grandfather and Kanthiram to be petitioner's cousin uncle by the Scrutiny Committee. In response, the petitioner has denied his relationship with these persons whose caste is entered as “Dhangar”. In order to assess said circumstance, we have gone through the entire Vigilance Cell Report. During the Course of inquiry, Vigilance Officer has recorded statement of Vasanta Gopala Mahure, Kundalik Narayan Mahure and petitioner's father – Ramdas Maroti Mahure.

11. The genealogy given by the petitioner denotes that Rama was having only son namely Maroti, whilst genealogy as collected by Vigilance Cell denotes that Ram was having two sons namely Maroti and Gopala. Shyamrao and Kanthiram whose caste is mentioned as “Dhangar” are two sons of Gopala. Therefore, apparently, it needs to be verified from available material whether Rama was having another son namely Gopala since the branch of Gopala is not at all shown by the petitioner.

12. Contextually, we have gone through the statement of Kundalik Narayan Mahure who is admittedly son of Maroti i.e. petitioner's real uncle. He stated that Rama had two sons namely Gopala and Maroti. Further, he stated that Gopala had five sons namely Shyamrao, Daulat, Kanthiram, Balkrushna and Vasanta. Moreover, he stated that besides four sons, Maroti had two daughters namely Venu and Kunda. Pertinent to note that, Kundalik very much belongs to the branch of Maroti. However, he admits that Maroti was having one brother namely Gopala and so on. Besides that, Vasanta i.e. son of Gopala equally stated about the two branches of Maroti, Gopala and admits that Vishnu (real uncle of the petitioner) is his cousin brother. Therefore, it appears that the genealogical tree provided by the petitioner is incomplete since total branch of Maroti's brother Gopala is missing. Perhaps, reasons may be that there is entry of caste "Dhangar" to the record of son of Gopala namely Shyamrao and Kanthiram.

13. It reveals from the impugned order that caste claim for "Dhangad" caste of petitioner's real uncle Vishnu and Narayan were rejected by the Caste Scrutiny Committee along with caste claim of

Ashok Balkrushna (Branch of Gopala). Moreover, petitioner's real aunt Venu, real uncle Vishnu and his son and daughter had obtained validity certificate of “Dhangar” caste which is N.T.(C). On that basis, it is argued by the learned Additional Government Pleader that already caste claim for “Dhangad” caste of petitioner's real uncle Vishnu and of some family members was rejected on verification by the Committee and then they have obtained caste validity of “Dhangar” caste.

14. The Scrutiny Committee has evaluated said material along with the affinity. Pertinent to note that petitioner has admitted that Vishnu was his real uncle whose caste claim for “Dhangad” caste has been rejected and thereafter, Vishnu obtained caste validity of “Dhangar” caste. The said material shows that the blood relatives of petitioner had abandoned the claim of “Dhangad” but had obtained validity of “Dhangar” caste. The Scrutiny Committee has taken into account all these aspects and particularly, expressed that the petitioner has suppressed the adverse material which could cause skate to his caste claim. Though the petitioner relied on the ratio of Supreme Court in case of **Anand vrs. Committee for Scrutiny and Verification of Tribe Claims and others, 2011 (6) Mh.L.J. 919**, it would not assist

him in view of above named peculiar facts. The Apex Court in case of ***Kumari Madhuri Patil and another Vs. Addl. Commissioner, Tribal Development and others, (1994) 6 SCC 241*** took note of the fact that the benefit of reservation of seats in educational institutions, and other appointments were being denied to the genuine tribals on the basis of false caste certificates. Terming such caste claims as “pseudo status”, it is observed that spurious tribes had become a threat to the genuine tribals. Emphasising the need to ensure that the benefit of reservation must be made available only to genuine persons, who belong to the notified caste or tribe, the Apex Court said that such claims should be judged on legal and ethnological basis. These observations are always to be kept in mind while assessing the caste claim of particular petitioner.

15. The Caste Scrutiny Committee has considered the entire material, rival old documents, rejection of validity of “Dhangad” caste in the family and the validity of “Dhangar” caste in the same family. The Committee which is empowered to evaluate the evidence placed before it, when records a finding of fact, it ought to prevail unless found vitiated due to substantial reasons. The Committee when considers all

the material facts and records a finding, though another view is possible, it is not a ground to reverse the findings under the power of judicial review. The Writ Court has to see whether the Committee considered all the relevant material and the finding is based on sound reasoning. According to us, the view taken by the Committee is quite possible, probable as well as rational one. Therefore, we find that it is not a fit case to invoke inherent jurisdiction in terms of Article 226 and 227 of the Constitution of India and resultantly, the petition would fail and accordingly, we dismiss the writ petition with no order as to costs.

(Judge)

(Judge)

Gohane.