



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

WRIT PETITION NO.7304/2023

Deorao Maruti Katole,
Aged about 50 years, occ. Service
Presently R/o. Bhandara,
Tq. And Distt. Bhandara

....**PETITIONER**

....**VERSUS**....

The Committee for Scrutiny of
Scheduled Tribe Certificates,
Yavatmal, District Yavatmal,
Through its member Secretary.

....**RESPONDENT**

Shri K.S. Narwade, Advocate for petitioner
Shri P.P. Pendke, AGP for respondent

CORAM : AVINASH G. GHAROTE AND
SMT. M.S. JAWALKAR, J.

DATE OF RESERVING THE JUDGMENT: 22/02/2024
DATE OF PRONOUNCING THE JUDGMENT : 28/02/2024

JUDGMENT (PER SMT. M.S. JAWALKAR, J.)

. Rule. Rule made returnable forthwith. Heard
finally with the consent of Shri. K.S. Narwade, learned

Counsel for petitioner and Shri. Pendke, learned AGP for respondent.

2. The Petitioner has challenged the order dated 13/09/2023 of invalidation of the Caste claim of the petitioner by the Committee for Scrutiny of Scheduled Tribe Certificates, Yavatmal (for the sake of brevity 'Caste Scrutiny Committee'). The petitioner claims to be belonging to "Halbi" Scheduled Tribe, which is recognized at Sr. No. 19 in the Schedule Tribe Order, in the State of Maharashtra.

3. From 02/11/1999, the petitioner is working as a carpenter in Regional Subordinate Services Selection Board, Nagpur. He was issued appointment under the Deputy Director of Health Services, Gadchiroli. On 29/12/2007, the employer of the petitioner had forwarded documents pertaining to the Tribe Claim of the petitioner for verification before the respondent/Scrutiny

Committee. The Scrutiny Committee handed over the proposal to the Vigilance Cell.

4. It is contended by the petitioner that the elder son of the petitioner namely **Shreyas Deorao Katole** has been granted validity of 'Halbi' Schedule Tribe by this Court in Writ Petition No.3150/2022 by the judgment dated 12/04/2023. Similarly, the younger son of the petitioner namely **Atharv Deorao Katole** has also been granted validity of 'Halbi' Schedule Tribe by this Court in Writ Petition No.5872/2023 by the judgment dated 18/09/2023.

5. It was reported by the Vigilance Cell that it did not find the entry of a person by name Maroti Deoji in the record of Tahsil Office Umarkhed, on which ground it opined that the applicant could not establish that the person is in relation with the petitioner. Accordingly, Caste Scrutiny Committee invalidated his caste claim and passed the impugned order without considering the pre-constitutional documents and two Caste Validity Certificates to the

petitioner's sons which are issued by the Scrutiny Committee, Yavatmal which clearly demonstrates that he belongs to 'Halbi' Scheduled Tribe.

6. Heard both the parties with the help of learned Assistant Government Pleader, perused record and proceedings of the Caste Scrutiny Committee. There is no dispute that the elder son of the petitioner Shreyas Deorao Katole has been granted validity of 'Halbi' Scheduled Tribe in Writ Petition No.3150/2022. So also, younger son of petitioner namely Atharv Devrao Katole has also been granted validity by the Court in Writ Petition No.5972/2023. This Court after perusing documents placed on record and in view of the judgment of the Hon'ble Apex Court, arrived at conclusion that there is not a single document which would show an entry as 'Halba Koshti'/'Halbi Koshti' as regards, petitioner or his blood relative.

7. Though petition is opposed by the learned Assistant Government Pleader for Caste Scrutiny Committee,

the petitioner appears to be possessed of the necessary documents from which it is clear that he and his forefather are belonging to 'Halbi' Scheduled Tribe. In view of this fact, both the sons of petitioner are already granted validity certificate by this Court and there is no challenge to the said decision. The petitioner placed on record following documents which are pre-independnece and having high probative value:

Name	Relation	Document	Date of document	Caste
Devji Santoba Halbi	Grandfather of petitioner	Birth Register	25/08/1925	Halbi
Devji Santoba Halbi	Grandfather of petitioner	Birth Register	30/06/1926	Halbi
Maroti Devji Katole	Father of petitioner	School leaving certificate	13/02/1931	Halbi

So far as documents dated 25/08/1925 and 30/06/1926 in respect of Devji Santoba Halbi are procured by vigilance cell and third document in respect of Maroti Devji Katole which is school leaving of father of petitioner, the document is dated 13/02/1931. All these three documents are

in respect of grand father and father of petitioner and are pre-constitutional having great probative value. Thus the oldest entries will prevail over the subsequent entries. Here are three pre-constitutional entries. There are also post constitutional entries whereas consistently it is shown that petitioner is belonging to 'Halbi' Tribe. The person who is shown as 'Koshti' that person is not in relation with the petitioner. As such, there was no reason to discard the evidence placed before the Committee.

8. Considering these pre-independence documents and the fact that validity certificates are already issued in favour of petitioner's two sons, there is no reason to deny the validity certificate to the petitioner. It is not possible to have different castes/tribe in one family. It cannot happen that the children belongs to 'Halbi' Scheduled Tribe and father is not. In case of *Apoorva d/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No.1, Nagpur and others in Writ Petition No.1504/2010*, which is held as under:

"We thus come to the conclusion that when during

the course of enquiry the candidate submits a caste validity certificate granted earlier certifying that a blood relation of the candidate belongs to the same caste as that claimed by the applicant, the committee may grant such certificate without calling for Vigilance Cell Report. However, if the committee finds that the earlier caste certificate is tainted by fraud or is granted without jurisdiction, the Committee may refuse to follow and may refuse to grant certificate to the applicant before it."

9. After going through the record of the Caste Scrutiny Committee and earlier judgment passed in favour of sons of petitioner, the reason given by the Caste Scrutiny Committee for invalidating caste claim of the petitioner cannot sustain in eye of law. The documents produced on record are pre-constitutional documents and having probative value. As such, the decision passed by the Caste Scrutiny Committee is liable to be set aside. The petitioner has duly established that he belongs to Scheduled Tribe 'Halbi'. Accordingly, we proceed to pass the following order:

ORDER

i) The order dated 13/09/2023 passed by the respondent

No.1/Schedule Tribe Certificate Scrutiny Committee, Yavatmal, in application No.5-ST/2007/10085 is hereby set aside.

ii) It is declared that the petitioner belongs to 'Halbi' Scheduled Tribe which is entry No.19 in the Constitution (Scheduled Tribes) Order, 1950.

iii) The Scheduled Tribe Caste Certificate Verification Committee, Yavatmal shall issue validity certificate to the petitioner within a period of four weeks from today.

10. Rule is made absolute in above terms. No costs.

11. The record be returned.

(Judge)

(Judge)

R.S. Sahare