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

Writ Petition No.1664 of 2012

Avinash S/o Vinayak Gonnade,
Aged about 23 years,
Occupation : Medical Student of
3rd year M.B.B.S. Course in
Grant Medical College, Sir J.J. Hospital
Premises, Bhaikhala, Mumbai-08,
R/o Saikrupa Housing Society,
Plot no.38, Narendra Nagar,
Nagpur

....Petitioner.

Versus

- 1] The Scheduled Tribe Caste Certificate,
through its Member Secretary, Gadchiroli
Tahsil and Distt. Gadchiroli.
- 2] State of Maharashtra,
Through its Secretary,
Department of Social
Welfare, Mantralaya,
Mumbai- 32.
- 3] Maharashtra University of Health
Sciences, Through Joint Registrar,
Vani Road, Mhasrul, Nashik-422004.
- 4] The Dean, Grant Medical College,
Sir, J.J. Hospital Premises,
Bhaikhala, Mumbai-8..

Respondents

Mr. R. S. Parsodkar, Advocate & Mr. A.M. Balpande,
Advocate for petitioner.
Mrs. S.W. Deshpande, Advocate for respondent no.1.
Mr. P.D. Kothari, AGP for respondent nos. 2 and 4.
Mr. J. B. Jaiswal, Advocate for respondent no.3.
Mr. S. P. Bhandarkar, Advocate for Intervenor.

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**CORAM : B. R. GAVAI &
Z.A. Haq, JJ**
DATE : 11th October, 2013.

ORAL JUDGMENT : (Per Z.A. Haq, J.) :

- 1] Heard the learned Advocates for the respective parties.
- 2] Rule. Rule returnable forthwith.
- 3] The petitioner has challenged the decision of the Scrutiny Committee invalidating the caste certificate of the petitioner certifying that the petitioner belongs to "Halba" scheduled tribe.
- 4] The petitioner has submitted that he belong to "Halba" scheduled tribe. The petitioner has stated that the petitioner got admission for the M.B.B.S. Course in the

academic session 2008-2009 in the seat reserved for scheduled tribe candidate. The petitioner has submitted that his caste certificate was submitted to the Scrutiny Committee for verification and the caste certificate is invalidated by the impugned order. According to the petitioner, the Scrutiny Committee has committed patent irregularity and illegality in rejecting the caste claim of the petitioner overlooking the documents of the years 1834, 1908 and 1945, which are pre-constitutional documents and have greater evidentiary value.

5] We have heard and decided Writ Petition No. 4667 of 2004 simultaneously. The petitioner Yogesh Namdeorao Gonnade in Writ Petition No. 4667 of 2004 is real paternal uncle of the present petitioner.

6] In the judgment reported in **2011 (2) BCR 824 (Apoorva Vinay Nichale Versus Divisional Caste Scrutiny Committee No.1 & others)**, identical issue fell for consideration of this Court and the Division Bench has considered it in paragraph 9 as follows:-

“Para 9 : “..... The matters pertaining to validity of caste have a great impact on the candidate as well as on the future generations in many matters varying from marriage to education and enjoyment (employment), and therefore where a committee has given a finding about the validity of the caste of a candidate another committee ought not to refuse the same status to a blood relative who applies. A merely different view on the same facts would not entitle the committee dealing with the subsequent caste claim to reject it. There is, however, no doubt as observed by us earlier that if a committee is of the view that the earlier certificate is obtained by fraud it would not be bound to follow the earlier caste validity certificate and is entitled to refuse the caste claim and also in addition initiate proceedings for cancellation of the earlier order. In this view of the matter, we are of the view that the petition must succeed. Rule is made absolute in above terms. The Caste Scrutiny Committee is directed to furnish the caste validity certificate to the petitioner.”

7] In view of the importance of the social status and the caste claim, we are of the view that once the caste claim of the real paternal uncle of the petitioner claiming to be “Halba” scheduled tribe is accepted/upheld, the caste claim

of the petitioner has also be upheld.

8] In view of the above and for the reasons given in the judgment delivered in Writ Petition No.4677 of 2004, we pass the following order:-

(i) Rule is made absolute in terms of prayer clause Nos.(1) and (3).

(ii)The Scrutiny Committee is directed to issue caste validity certificate to the petitioner certifying that the petitioner belongs to "Halba" scheduled tribe, within four weeks.

(iii)Respondents 3 and 4 are directed to take all consequential steps treating the admission of the petitioner in the M.B.B.S course is proper and valid.

(iv)In the circumstances, the parties to bear their own costs.

JUDGE

Ambulkar

JUDGE