



wp1621-03.odt



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Judgment

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.
WRIT PETITION NO.1621/2003
with
WRIT PETITION NO.1622/2003

WRIT PETITION NO.1621/2003

Pradipkumar s/o Krishnarao Dange,
aged about 32 years,
Occupation- Govt. Service,
R/o S.D.O. Residence,
Bramhapuri

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PETITIONER

.....VERSUS.....

1. The State of Maharashtra,
through the Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai -32.
2. The Scheduled Tribe Caste
Certificate Scrutiny Committee,
Nagpur.

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RESPONDENTS

WRIT PETITION NO.1622/2003

Chandrakant s/o Krishnarao Dange,
aged about 34 years,
Occupation- Govt. Service,
R/o " Shivganga", Bungalow No.19/2,
Deputy Collector Colony,
Opp. Collector's Office, Civil Lines,
Nagpur.

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PETITIONER

.....VERSUS.....

1. The State of Maharashtra,
through the Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai -32.

2. The Scheduled Tribe Caste
Certificate Scrutiny Committee,
Nagpur. ..

RESPONDENTS

Shri M.G. Bhangde, Senior Advocate with Shri V.V. Bhangde, Advocate for the
Petitioners.

Shri A.G. Mujumdar, A.G.P. for Respondent no.1.

Shri S.M. Puranik, Advocate for Respondent no.2.

CORAM : B.R. GAVAI AND
SUNIL P.DESHMUKH, JJ.

DATE : 18th October, 2012.

ORAL JUDGMENT (Per B.R. GAVAI, J.)

1. By consent of the parties, the petitions are taken up for hearing.

2. Both the petitioners who are real brothers, have approached this Court challenging the orders passed by the Caste Scrutiny Committee invalidating their claim of belonging to Halba/Halbi Scheduled Tribe. The claim of the petitioners had been rejected on the ground that in the sister's document, the caste was initially shown as Koshti which subsequently came to be changed as Halba/Halbi.

3. The Division Bench of this Court in the case of **Sou.Priya Pravin Parate .vs. Scheduled Tribes Caste Certificates Scrutiny Committee and ors** (W.P. No. 2571/2001 and ors) to which one of us (Gavai, J.) is party, has taken a view relying on the judgment of the Apex

Court in the case of Anand .vs. Committee for Scrutiny and Verification of Tribe Claims and ors reported in 2011 (6) Mh.L.J. 919 has held that an affinity test cannot be considered as a litmus test and that the documents of pre-Independence era will have a greater probative value. The facts in the said case were identical to the facts of the present case. The Court relying on the gazette of Amravati District and also the authority of Russel on caste and tribe has held that Halba/Halbi after migration to certain parts of the State including Ellichpur/Anjangaon area of the Amravati district had taken up profession of weaving. It is, therefore, held that merely because in some of the documents caste Koshti is shown, cannot be a ground to disregard pre-Independence documents. In the present case, the petitioners have placed on record the documents pertaining to his father and grandfather. The document at Annexure no.4 is an extract of the admission register of the petitioner's father which shows that the petitioner's father was admitted in the school on 3.4.1940 and his caste is shown as Halbi. Similarly the document at Annexure-6 is a certificate issued by the Achalpur Municipal Council showing therein that the petitioner's grandfather Mahadeo Maroti's caste is shown as Halbi, had taken education in the Municipal Council Primary School, Achalpur between 13.6.1928 and 1.8.1928. We find that the Committee has grossly committed an error in overlooking these vital documents which are

undisputedly of the pre-Independence era. It is not disputed by the respondents that the documents submitted by the petitioners are not fabricated or forged. In that view of the matter, we find that the present case is squarely covered by the view taken by us in Sou. **Priya Pravin Parate's** case (supra).

4. In that view of the matter, the present writ petitions deserve to be allowed. The impugned orders passed by respondent no.2- Scrutiny Committee are quashed and set aside. The respondent Scrutiny Committee is directed to forthwith issue a certificate of validity in favour of the petitioners certifying them to be belonging to Halba/Halbi Scheduled Tribe.

5. In view of disposal of writ petitions, nothing survives in the Civil Application Nos. 657/2012, 1244/2012 , 658/2012 and 1538/2012 and as such the same are disposed of.

6. Needless to state that as a consequence to the order passed by us, respondent no.1/employer of the petitioners would be bound to give all the benefits to the petitioners on the basis of their claim of belonging to Halba/Halbi Scheduled Tribe.

7. Writ petitions are accordingly allowed. Rule is made absolute in both the petitions in the aforesaid terms, with no order as to costs.

JUDGE

JUDGE

HALWAI