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GANESH S/O GULABRAO SUROSHE

v.

STATE OF MAHARASHTRA AND ORS.

MARCH 17, 1997

B

[K. RAMASWAMY AND G.T. NANAVATI, JJ.]

*Scheduled Castes and Scheduled Tribes Act, 1976 :*

C

D

*Social status certificate—Claimants by caste a 'Thakur', a forward caste in State of Maharashtra, claiming himself as Schedule Tribe—Scrutiny Committee rejecting the claim holding that claimant was neither a 'Ma Thakur' nor a 'Ka Thakur'—Writ of claimant dismissed by High Court—Held Notification of the President under Article 342 of the Constitution, subject to the Scheduled Castes and Scheduled Tribes Act 1976 is conclusive and final—Court cannot examine, to find out the caste of the party, the basis of the certificate issued—The limited area the Court can survey is whether the caste mentioned in the presidential Notification would be applicable to the claimant or not High Court committed no error warranting interference: Constitution of India, 1950, Article 342.*

E

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2537 of 1997.

From the Judgment and Order dated 22.4.96 of the Bombay High Court in W.P. No. 703 of 1994.

F

R.S. Lambat for the Appellant.

The following Order of the Court was delivered:

Leave granted.

G

This appeal by special leave arises from the judgment of the High Court of Bombay, Nagpur Bench, made on 22.4.1996 in Writ Petition No. 703/94.

H

The appellant claimed to be a member of the Scheduled Tribes. Admittedly, the appellant is 'Thakur' by caste, a forward caste. His grandfather was shown as a 'Thakur' but not as 'Ka' or 'Ma' Thakur. In Maharashtra, 'Ma Thakur' or 'Ka Thakur' are described as Scheduled

Tribes. The appellant, therefore, claimed the status of a Scheduled Tribe and made an application to the authorities for issuance of the Caste Certificate. After due enquiry, the Scrutiny Committee Constituted negated the claim of the appellant for status of a Scheduled Tribe. The appellant filed a writ petition in the High Court which observed out that the Committee has minutely enquired into the findings and stated as under:

"This Court Cannot examined the material on record as a Appellate Authority. If the conclusion reached by the Committee is possible on the basis of the material on record, then this Court cannot interfere with the order of the Scrutiny Committee in exercising of its extra ordinary jurisdiction under Article 226 of the Constitution of India. Accordingly it was dismissed."

Shri R.S. Lambat, learned counsel for the appellant, contends that the Scrutiny committee have recorded the finding in paragraph 8 as under:

"With this end in view the Committee has applied the affinity test and concluded that the affinity test was negated. I feel that the respondent has been giving unduly high stress on the affinity aspect. It may not be necessary that all Thakur Scheduled Tribes have an affinity with Ka Thakur or Ma Thakur. The application of this test is some time viewed so mechanically and arithmetically (eligible) the extraneous factors such as educational background, social environment, vocational up bringing etc. which play a map role in the shaping of one's personality are lost sight of."

It is contended that the conclusion reached on the basis of the findings of the Committee is not warranted. Therefore, the High Court would have gone into the question and verified the basis on which the Scrutiny Committee has scrutinised the claims of the appellant as a 'Ma Thakur' or 'Ka Thakur'. It is true, as pointed out by the Scrutiny Committee, that each case is required to be examined in the facts and circumstances of the case. The notification of the President under Article 342 of the Constitution, subject to the Scheduled Castes and Scheduled Tribes Act, 1976, is conclusive and final. There are catena of decisions of this Court holding that the Court cannot examine, to find

A out the caste of the party, the basis of the certificate issued. The limited area the Court can survey is whether the caste mentioned in the presidential Notification would be applicable to the claimant or not. Under these circumstances, we do not think that the High Court has committed any error of law warranting interference.

B The appeal is accordingly dismissed. No costs.

R.P.

Appeal dismissed.