

SUPREME COURT OF INDIA

Dattu s/o Namdev Thakur

Vs.

State of Maharashtra & Ors.

SLP(Civil)No.3314 of 2010

(Altamas Kabir,J., Surinder Singh Nijjar and J.Chelameswar,JJ.,)

07.12.2011

JUDGMENT

Altamas Kabir,J.,

1. Special Leave Petition(C)Nos. 3314, 3365 and 3370, all of 2010, which are on board today, all arise out of the judgment and final order dated 14th December, 2009, passed by the Aurangabad Bench of the Bombay High Court in Writ Petition Nos.7813 of 2009, 8048 of 2009 and 7289 of 2009.

2. The petitioner in SLP(C)No.3314 of 2010, is the father of the petitioners in the other two Special Leave Petitions, one being the son and the other being the daughter of the petitioner, Dattu Thakur, son of Namdev Thakur. In all these cases, SLP(C)3314/10 +2 the grievance is common since the 'Caste Certificates' granted to them on 7th June, 2001, by the competent authorities were invalidated by the Caste Scrutiny Committee by its orders dated 4th September, 2009 and 24th September, 2009.

3. The Caste Certificates issued to the petitioners were invalidated mainly on the ground that they were unable to satisfy the Caste Scrutiny Committee that they belong to the 'Thakur' tribe, which is recorded as a Scheduled Tribe at Serial No.44 of the Maharashtra Scheduled Tribes List. The Caste Scrutiny Committee also came to the finding that the School Leaving Certificate of the father of the petitioner in SLP(C)No.3314 of 2010, did not really support the case of the petitioners who, in any event, had also failed in the affinity test. It was submitted that the documents tendered by them did not conform to their claim. Furthermore, the petitioners were also unable to prove by way of affinity test that they belong to the Thakur Scheduled Tribe.

4. Cancellation of the 'Caste Certificates' issued to the petitioners on the basis of the SLP(C)3314/10 +2 report of the Caste Scrutiny Committee, was challenged by the petitioners in the aforesaid writ petitions, in which the High Court upheld the findings of the Caste Scrutiny Committee.

5. As indicated hereinabove, the Special Leave Petitions have been filed against the said order of the High Court.

6. Having heard learned counsel for the petitioner(s), as well as the State of Maharashtra, we are of the view that even if we are to accept the findings of the Caste Scrutiny Committee, as also that of the High Court, we cannot ignore the various circumstances that have intervened between the issuance of the 'Caste Certificates' and the cancellation thereof. In fact, reference was made to the Caste Scrutiny Committee in 2009, i.e. nine years after the certificates had been issued, and there is no proper explanation for such delay. On the other hand, the petitioner in the first writ petition has been allowed by the respondents to continue in service and also by virtue of orders passed by the High Court. Similarly, the petitioners in the other two writ petitions have continued their studies after having obtained certain benefits from their 'Caste Certificates'. We are now informed by Mr. Kanade, learned senior advocate, appearing for the petitioner(s), that the petitioner in the second Special Leave Petition, Amol, who is the son of Dattu Thakur, who is the petitioner in the main Special Leave Petition, has in the meantime, appeared for the B.Pharmacy examination but his results have not been declared. Similarly, Pratibha, daughter of Dattu Thakur, who is the petitioner in the other Special Leave Petition, has appeared for the B.Ed.examination and her result is also to be declared.

7. In support of the case of the petitioner(s), an order passed by another Bench of this Court in (Swati Vs. State of Maharashtra & Ors.), on 6th September, 2010, was brought to our notice, wherein in similar circumstances, the Court while dismissing the civil appeal, directed that the benefits that had already been enjoyed by the candidate, and the degree obtained by her in the BDS course, which she had completed, would continue. The Court further directed that she would not be entitled to any further benefits under the 'Caste Certificates' issued to her and that whatever advantage she may have obtained by way of payment of fees at a reduced rate, were to be made up by her by paying the difference.

8. We are of the view that this being a case of a similar nature, the decision of the said Bench may also be applied to the facts of this case.

9. Accordingly, while dismissing all the three Special Leave Petitions, we direct that whatever advantage the three petitioners in the three Special Leave Petitions, may have derived on the basis of their 'Caste Certificates', shall not be disturbed and the cancellation of their respective 'Caste Certificates' will not deprive them of the benefits which they have already enjoyed. However, we also make it clear that none of the three petitioners in the three respective Special Leave Petitions, will be entitled to take any further advantage of reservation in future, either for studies or for employment. Following the judgment in Swati's case, we also direct that if the petitioners in the 2nd and 3rd Special Leave Petition, have obtained any concession by way of reduction in fees, as a reserved candidate, they will have to make good the same by paying the difference in fees that is being paid by general candidates. Such payment has to be made within a period of six months and in default of such payment, this order will cease to have any effect.

10. The results of the 2nd and 3rd petitioners shall, therefore, be published in view of this judgment.

11. There will be no orders as to costs.