



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

**WRIT PETITION NO. 3607/2023**

Shreyash Ajay Ghormare, aged 17  
years, minor through its guardian  
father Shri Ajay Khemraj Ghormare, Aged 51 yrs,  
resident of Kumbhali, Tq. Sakoli,  
District Bhandara.

....**PETITIONER**

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

1. The Scheduled Tribe Caste Certificate  
Scrutiny Committee, through its  
Member Secretary, Gondia, Tq.  
District Gondia.

2. State Commission Entrance  
Test Cell, Maharashtra State  
Through its Commissioner, 8<sup>th</sup>  
Floor, Excelsior building, A.K.  
Nayak Marg, Fort, Mumbai - 400 001,  
State of Maharashtra.

3. National Medical Commission,  
through its Chairman, Pocket No. 14,  
Sector 8, Phase 1, Dwarka, New  
Delhi-110 007.

(Amendment carried out as per  
Court Order dt. 3/11/2023  
i.e. R-2 & 3 added)

....**RESPONDENTS**

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Shri R.S.Parsodkar, Advocate for petitioner.  
Shri N.R.Patil, AGP for respondent no. 1/State.  
Shri N.A.Gaikwad, Advocate for respondent no. 2.

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

**DATE OF RESERVING THE JUDGMENT:** **26/04/2024**  
**DATE OF PRONOUNCING THE JUDGMENT :** **09/05/2024**  
**JUDGMENT (PER: SMT. M.S. JAWALKAR, J.)**

1. Heard.
2. The matter is taken up for final hearing at the request and by consent of the respective parties at the stage of admission.
3. It is claimed by the petitioner that, he belongs to 'Mana' Scheduled Tribe. He has been issued the caste certificate by the Competent Authority. The father and real sister of the petitioner have been granted caste validity certificates of 'Mana' Scheduled Tribe. He has produced the documents pertaining to years 1914, 1916 and 1943 showing his forefathers belonging to 'Mana' Scheduled Tribe. As the petitioner is preparing for NEET exam, he needs the caste validity certificate. The caste claim of the petitioner was sent to respondent no. 1 - The Scheduled Tribe Caste Certificate Scrutiny Committee, Gondia (for short, "Caste Scrutiny Committee") for verification. In spite of there being 16 validity certificates in favour of the blood relatives from the

paternal side of the petitioner, the Caste Scrutiny Committee referred the documents to the Vigilance Cell for verification. It is contended that, the Caste Scrutiny Committee by ignoring the oldest documents of the pre-independence era in respect of the petitioner's ancestors, has invalidated the caste claim of the petitioner on erroneous consideration of the documents.

4. The petitioner has filed as many as 90 documents showing the caste 'Mana' of his family members, except one which indicates Patil/Patel Mana. The old entries prior to independence era are as under:-

Name	Relation	Document	Date of document	Caste
Khemraj Yeshuram	Grandfather	T.C.	1943	Mana
Hudesar Wald Mana Kasiram Wald Puna Mana	Great Great Grandfather	P-01	1918-19	Mana
Khemraj Yeshuram Ghormare	Grandfather	Service Book	Date of Year 1936	Mana
Dolan Wa. Neu Mana Patil	In Genealogy	S 9	1918-19	Mana Patil
Yeshuram Hudeshwar	Great Grandfather	Dakhal Kharij Extract	1914	Mana

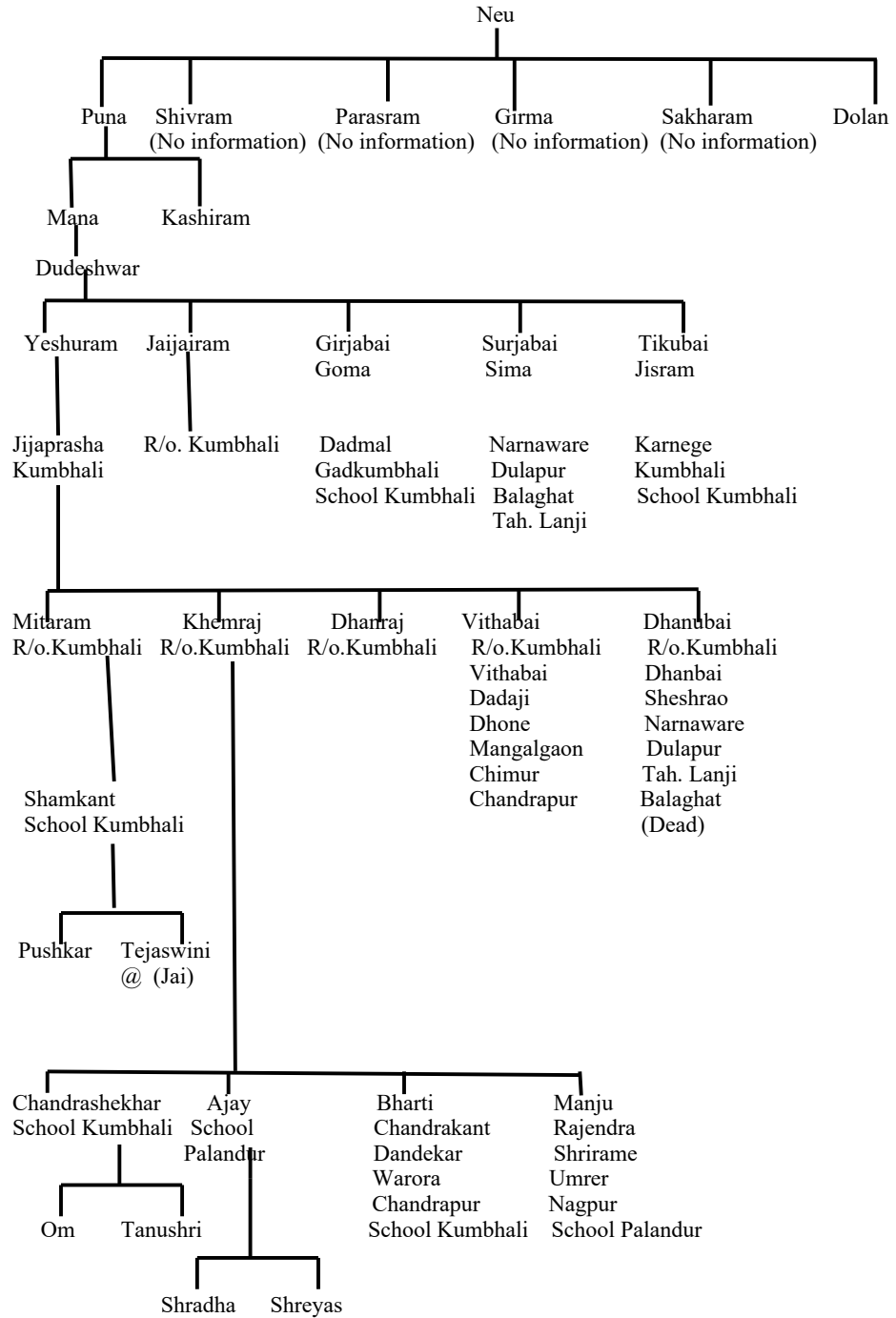
Tursabai Dolan	In Genealogy	Dakhal Kharij Register	1929	Mana
Markand Nandlal	In Genealogy	Dakhal Kharij Register	1935	Mana
Dolan Patil	In Genealogy	Kotwalpanji	1922	Mana

5. Our attention is also drawn to the fact that, there are as many as 16 validity certificates issued in favour of the blood relatives of the petitioner and those (blood relatives) are shown from the family tree. So far as entry against Dolan Wa. Neu Mana Patil, the same is duly explained by the father of the petitioner that, in the villages, the elder person having respect in the village used to be called as 'Patil', that however does not change the entries in regard of the other relatives.

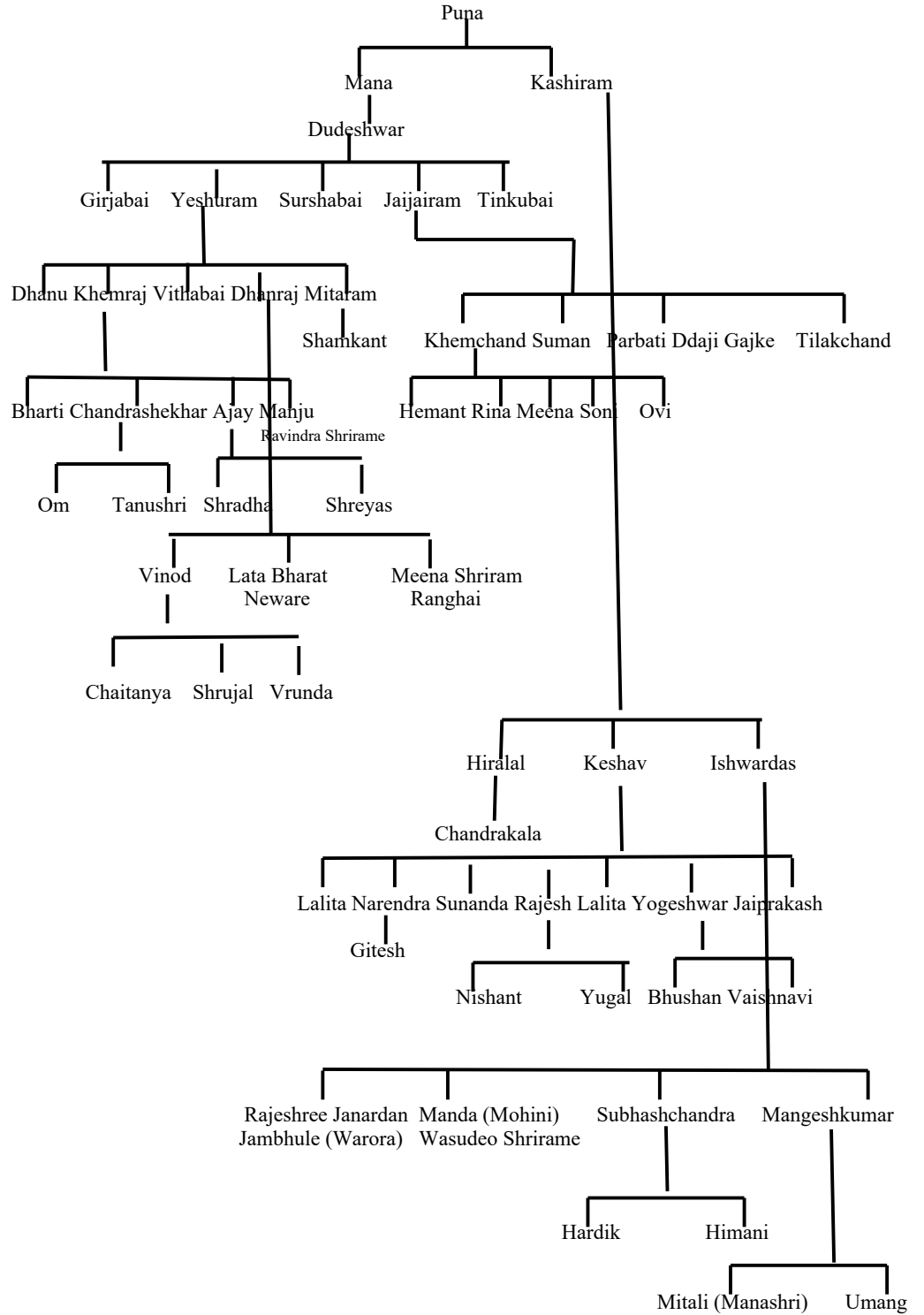
6. Though the learned Assistant Government Pleader supported the impugned order, he has fairly conceded that, there are 16 validity certificates issued in favour of the blood relatives of the petitioner and he also does not dispute the genealogy. However, his contention is that, the Caste Scrutiny Committee has every right to invalidate the caste claim of the petitioner, if there is any reason to hold that, he is not belonging the tribe to which he is claiming to belong

to. The undisputed genealogy in the instant matter is as under:-

**GENEALOGICAL TREE**



## GENEALOGICAL TREE



7. In the Vigilance Report dated 20/09/2022 (pg.49), the following persons in the above genealogy are acknowledged to have been granted validity.

Sr.No.	Name of Persons	Relation with the applicant	Address.
1	Ajay Khemraj Ghormare	Father	Mukkam Post Kumbhali, Tah. Sakoli, Dist. Bhandara
2	Chandrashekhar Khemraj Ghormare	Uncle	Mukkam Post Kumbhali, Tah. Sakoli, Dist. Bhandara
3	Om Chandrashekhar Ghormare	Cousin Brother	Mukkam Post Kumbhali, Tah. Sakoli, Dist. Bhandara
4	Tanushri Chandrashekhar Ghormare	Cousin Brother	Mukkam Post Kumbhali, Tah. Sakoli, Dist. Bhandara
5	Shraddha Ajay Ghormare	Sister	Mukkam Post Kumbhali, Tah. Sakoli, Dist. Bhandara
6	Nitin Tilakchand Ghormare	Not in genealogy. (Tilakchand appeared in genealogy).	Mukkam Post Kumbhali, Tah. Sakoli, Dist. Bhandara
7	Gitesh Narendra Ghormare	In genealogy.	Mukkam Post Kumbhali, Tah. Sakoli, Dist. Bhandara
8	Nishant Rajesh Ghormare	In genealogy.	Mukkam Post Kumbhali, Tah. Sakoli, Dist. Bhandara

9	Yugal Rajesh Ghormare	In genealogy.	Mukkam Post Kumbhali, Tah. Sakoli, Dist. Bhandara
10	Subhashchandra Ishwardas Ghormare	In genealogy.	Mukkam Post Kumbhali, Tah. Sakoli, Dist. Bhandara
11	Mangeshkumar Ishwardas Ghormare	In genealogy.	Mukkam Post Kumbhali, Tah. Sakoli, Dist. Bhandara
12	Saurav Durwas Ghormare	Not in genealogy.	Mukkam Post Kumbhali, Tah. Sakoli, Dist. Bhandara
13	Sahil Durwas Ghormare	Not in genealogy.	Mukkam Post Kumbhali, Tah. Sakoli, Dist. Bhandara
14	Vanashri Lokram Ghormare	Not in genealogy.	Mukkam Post Kumbhali, Tah. Sakoli, Dist. Bhandara
15	Shamkant Mitaram Ghormare	In genealogy.	Mukkam Post Kumbhali, Tah. Sakoli, Dist. Bhandara
16	Rajni Tilakchand Ghormare	Not in genealogy. (Tilakchand appeared in genealogy).	Mukkam Post Kumbhali, Tah. Sakoli, Dist. Bhandara

8. Even if the names of the persons at Sr. Nos. 6, 12 to 14 and 16 are not matching with the genealogy, that still leaves us with 11 people who are established to be

genealogically related and therefore, the blood relations of the petitioner have been granted validity.

9. In our considered opinion, the approach of the Caste Scrutiny Committee is totally erroneous and against the rules and also against the principles laid down by the various Superior Courts. Though the order runs in 128 pages, the relevant material is not considered by the Caste Scrutiny Committee. The Caste Scrutiny Committee while invalidating the caste claim of the petitioner unnecessarily referred to the request of the persons belonging to 'Mana' caste for withdrawal of their claim. These persons are not in relation of the petitioner. Though they might have withdrawn their claim as of 'Mana' for their reasons, however, that cannot affect the right of the petitioner to claim of belonging to 'Mana' Scheduled Tribe. The reasons which are set out, are thoroughly unjustified to discard the tribe claim of the petitioner. The Caste Scrutiny Committee ought not to have discarded the tribe validity certificates granted to 16 near relatives. In fact, we are pained to note that there are a

number of such orders passed by the Caste Scrutiny Committee, in spite of there being validity certificates in favour of the near relatives of the applicant or for that matter where validities have been either granted or upheld by this Court. There was no material before the Caste Scrutiny Committee, which can lead to inference that the caste validity certificates granted to the petitioner's father, sister and uncle, were in any manner flawed. In *Apoorva d/o. Vinay Nichale V/ s. Divisional Caste Certificate Scrutiny Committee No. 1, Nagpur and ors. [Judgment of this Court in Writ Petition No. 1504/2010, dated 27/07/2010]*, it is held in para 7 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."*

It is also held that,

*"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, 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."*

10. We have noticed that, there are many orders passed by the Caste Scrutiny Committee against the principle laid down by the Hon'ble Apex Court as well as by this Court. There are various judgments passed by the Superior Courts holding that, if there are genuine documents prior to independence era, there is no necessity to call for Vigilance Cell report. It is also time and again held by the Hon'ble Apex Court as well as this Court that, if there is any validity issued in favour of the blood relative of the applicant and there is no dispute about the genealogy, the Caste Scrutiny Committee ought to have issued a validity certificate in favour of the applicant.

11. No doubt, it is also held by the Apex Court that, if there is any instance of fraud and misrepresentation, the Caste Scrutiny Committee has right to re-open the claim or invalidate the caste claim, however, the procedure prescribed

under the Act is required to take up before such invalidation and in cases of such validity certificates issued in favour of the other blood relatives, the Committee ought to have issued notice to them, heard them, rendered a finding of fraud on the basis of material procured, invalidated all the validity certificates and then only could have denied validity to the petitioner. Now there is every possibility that the invalidity of the tribe claim may adversely affect the validity granted to the blood relatives of the petitioner, which would be without there being any notice, due to which, the said beneficiaries would be deprived of their legal right to defend the validity granted in their favour. As such, the order passed by the Caste Scrutiny Committee is totally erroneous and serious note of the impugned order is taken by this Court. Needless to mention here that the Maharashtra Scheduled Castes, Scheduled Tribes, De-Notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 under Section 7 provides

procedure for cancellation of false caste certificate and confiscation thereto. The Hon'ble Apex Court time and again made it clear that such action can be taken only if fraud has been established. Section 7, however, cannot be used where validity has been issued.

12. Learned Counsel for petitioner relied on *Purushottam Vs. Scheduled Tribe Caste Scrutiny Committee, Writ Petition No.4645/2015*.

13. As it was noticed by the Superior Court, the rules framed under the Maharashtra Scheduled Castes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes (Regulation of Issuance and Verification of) Caste Certificate Rules, 2012, were suitably amended by inserting clause 'G' in Rule 4, which provides procedure for obtaining caste certificate from competent authority. By this amendment, the candidate was required to submit validity certificate, if any, issued by the Scrutiny Committee in respect of blood relatives. It is made clear that if such validity certificate is submitted, it has to be

treated as important evidence and Committee should issue caste validity certificate without insisting on any other evidence. Similarly amendment is made in Rule 5. In our considered opinion, in spite of this specific provision without recording any justifiable reason, the Caste Scrutiny Committee discarded 11 validity certificates issued in favour of blood relatives of the petitioner.

14. The order passed by the Caste Scrutiny Committee is unjustifiable, erroneous and therefore, liable to be set aside.

15. The impugned decision is a classic example of total non-application of mind and the manner in which the Caste Scrutiny Committee is functioning. In spite of there being 11 validities in the family, undisputedly, which still hold the field, the father and real sister of the petitioner having already being granted validity of belonging to 'Mana' Scheduled Tribe, which are still valid, the Caste Scrutiny Committee has created a situation where admittedly the father and sister of the petitioner are held to be belonging to

the Scheduled Tribe 'Mana', whereas the petitioner, who is the son, on consideration of the same documents, has been held not to so belong. We refrain from writing anything more on this, though much could be written about the conduct of the Caste Scrutiny Committee. Suffice it to say that such a situation cannot be countenanced. We, therefore, consider this to be fit case to impose costs upon the Chairman/Member of then existing of Caste Scrutiny Committee, Gondia and quantify the same to be a sum of Rs. 50,000/- to be paid by the Caste Scrutiny Committee in this Court.

16. Accordingly, we proceed to pass the following order:-

ORDER

1) The Writ Petition is **allowed**.

2) The impugned order bearing नस्ती क्र. सआ/अजप्रतस/गों/I/१६७/३५/२०२१ (Case ID-६/५०६/Edu/०९२०२१/२४११४५) dated 13/04/2023 passed by respondent no. 1 - The Scheduled Tribe Caste Certificate Scrutiny Committee, Gondia in the matter of the

petitioner - Shreyash Ajay Ghormare is hereby quashed and set aside.

3) It is held and declared that, the petitioner has duly established that he belongs to 'Mana' Scheduled Tribe, the entry of which is at Sr. No. 18 of the Constitution (Scheduled Tribes) Order, 1950.

4) The respondent no. 1 - Caste Scrutiny Committee is hereby directed to issue validity certificate of 'Mana' Scheduled Tribe to the petitioner, as he belongs to 'Mana' Scheduled Tribe, within a period of four weeks from this order.

5) The costs of Rs. 50,000/- shall be deposited by the then members of Caste Scrutiny Committee in this Court within a period of four weeks from today.

Accordingly, the petition stands **disposed of**.

(Judge)

(Judge)

B.T.Khapekar