

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO. 10827 OF 2023

Priyanka D/o Dilip Rekulwad,  
Age – 19 years, Occu. : Student,  
R/o Gavan, Tq. Jalkot,  
Dist. Latur.

.. Petitioner

**Versus**

1. The State of Maharashtra,  
Department of Tribal Development,  
Mantralaya, Mumbai – 32,  
Through its Secretary.

2. The Scheduled Tribe Certificate  
Scrutiny Committee, Kinwat  
office at Aurangabad,  
Through Member Secretary.

.. Respondents

Shri Mahesh S. Deshmukh, Advocate h/f Shri Vivekanand B.  
Jadhav, Advocate for the Petitioner.  
Shri S. B. Yawalkar, Addl.G.P. for the Respondent Nos. 1 and 2.

**CORAM : MANGESH S. PATIL AND  
SHAILESH P. BRAHME, JJ.**

**CLOSED FOR JUDGMENT/ORDER : 31.08.2023**  
**JUDGMENT/ORDER PRONOUNCED : 20.09.2023**

**JUDGMENT (Per Shailesh P. Brahme, J.) :-**

. Rule. Rule is made returnable forthwith. With the consent of the learned counsel for respective parties heard finally at the admission stage.

2. The petitioner is challenging the judgment and order dated 10.08.2023 passed by the respondent No. 2/Scrutiny Committee invalidating her tribe certificate as belonging to “Koli Mahadev” (Scheduled Tribe) and confiscating the same.

3. The petitioner has placed on record genealogy at page No. 49 of the petition to point out the validity holders in her family and her relationship with them. It is pointed out that there are number of validity holders and predominantly she is relying upon validities of Vikrant Ganesh Rekulwad and Madhukar Govind Rekulwad. She is also relying upon her reply to the vigilance enquiry report, validity certificate issued to her relatives, the extract of revenue record and the vigilance report in the matter of Vikrant Ganesh Rekulwad.

4. The learned Additional Government Pleader would submit that the Scrutiny Committee has rightly rejected the caste claim of the petitioner because the school record of the relatives of the petitioner was found to be incompatible with the caste claim of the petitioner. Amongst the contrary entries, entries of 1962 of Ramrao Marotirao Rekulwad, Sulochana Tukaram Rekulwad and entry of 1964 of Kamal Tukaram Rekulwad are older than the entries in the school record sought to be relied by the petitioner. The learned Addl. G. P. would point out that the record is indicative of caste Koli, which is non tribe. The Scrutiny Committee has also noticed manipulation in the school record of Jalba Vishwanath Rekulwad and Balbhim Baburao

Rekulwad.

5. The learned Addl. G. P. submits that the validity certificates of Madhukar Govind Rekulwad and Vikrant Ganesh Rekulwad are not reliable. The relationship of the petitioner with the validity holders is disputed. Signature of Madhukar Rekulwad appears to be forged. The learned Addl. G. P. has placed on record original files of the petitioner and the validity holders Deepak Subhash Rekulwad, Madhukar Govind Rekulwad, Vikrant Ganesh Rekulwad and Dilip Narsing Rekulwad. He has strenuously raised objection for inconsistencies in the genealogies produced before the Scrutiny Committee in the respective matters of the above validity holders.

6. The learned counsel for the petitioner has pointed out the vigilance report in the matter of Vikrant Ganesh Rekulwad to support the contention that the entry of 1965 in the school record of Ganesh Parshuram Rekulwad and entry of 1968 of Balaji Ramchandra Rekulwad were verified. These two entries indicate caste as Koli Mahadev. He has also invited our attention to the reply submitted to vigilance report, which refers to the entries in the matter of Ganesh and Balaji. He would submit that no negative comment is passed in respect of those entries. The learned counsel has tendered justification for not filing affidavit of the relatives.

7. It is stated in the reply that the petitioner had applied for

the copies of the documents, but those were not supplied. He would submit that he is surprised by the findings recorded by the Committee in respect of forged signature of Madhukar. As the relevant documents were not produced and the petitioner was not apprised of the files of the validity holders. He was unable to respond to that aspect of the matter before the Scrutiny Committee. Hence the alleged forgery of Madhukar Rekulwad cannot be considered.

8. He would submit that the entries of Census of 1951 indicating caste Koli is inconsequential because those are inadmissible in view of Section 15 of the Census Act. He further submits that the validity holders Vikrant, Madhukar and Deepak were issued with the validity certificates after following due procedure of law and the Scrutiny Committee ought to have granted validity certificate to the petitioner.

9. We have considered rival submissions canvassed by the parties. With the assistance of the learned counsel we have examined the papers contained in the files of the petitioner, Vikrant, Deepak, Madhukar and Dilip produced by the respondents.

10. The genealogy which is produced at page No. 49 shows that the petitioner is lineal descendant of Pundaji Rekulwad. Gundaji and Pundaji are the sons of Sakhu. Sakhu is real brother of Santu. The validity holders of which the support is sought for by the petitioner are lineal descendants of Gundaji Sakhu Rekulwad

and Santu Laxman Rekulwad. It is transpired from the record that the genealogy at page No. 49 is totally inconsistent with the genealogies produced in the matters of validity holders.

11. The learned counsel for the petitioner is relying upon entries of the school record of Ganesh Parshuram Rekulwad (1965) and Balaji Ramchandra Rekulwad (1968) indicating caste as Mahadev Koli. It reveals from the record that few entries of the relatives of the petitioner are older than the entry of Ganesh of 1965. The vigilance officer found that the school record of Ramrao Maroti Rekulwad of 1962 and Sulochana Tukaram Rekulwad of 1962 disclose caste Koli. These adverse entries are not explained by the learned counsel for the petitioner. Besides that there are further contrary entries of Kamal Ramchandra Rekulwad (1966), Champawati Parshuram Rekulwad (1967), Balaji Tukaram Rekulwad (1967) and Vimal Maroti Rekulwad (1967) to indicate caste Koli which are prior to another entry of Balaji of 1968 referred by the petitioner.

12. We find that the school entry of 1965 of Ganesh and 1968 of Balaji can be of no help to the petitioner. From 1962 till 1978 there are number of entries indicating caste as Koli, which are considered by the Scrutiny Committee in paragraph 6(ii) of the impugned judgment, which cannot be faulted.

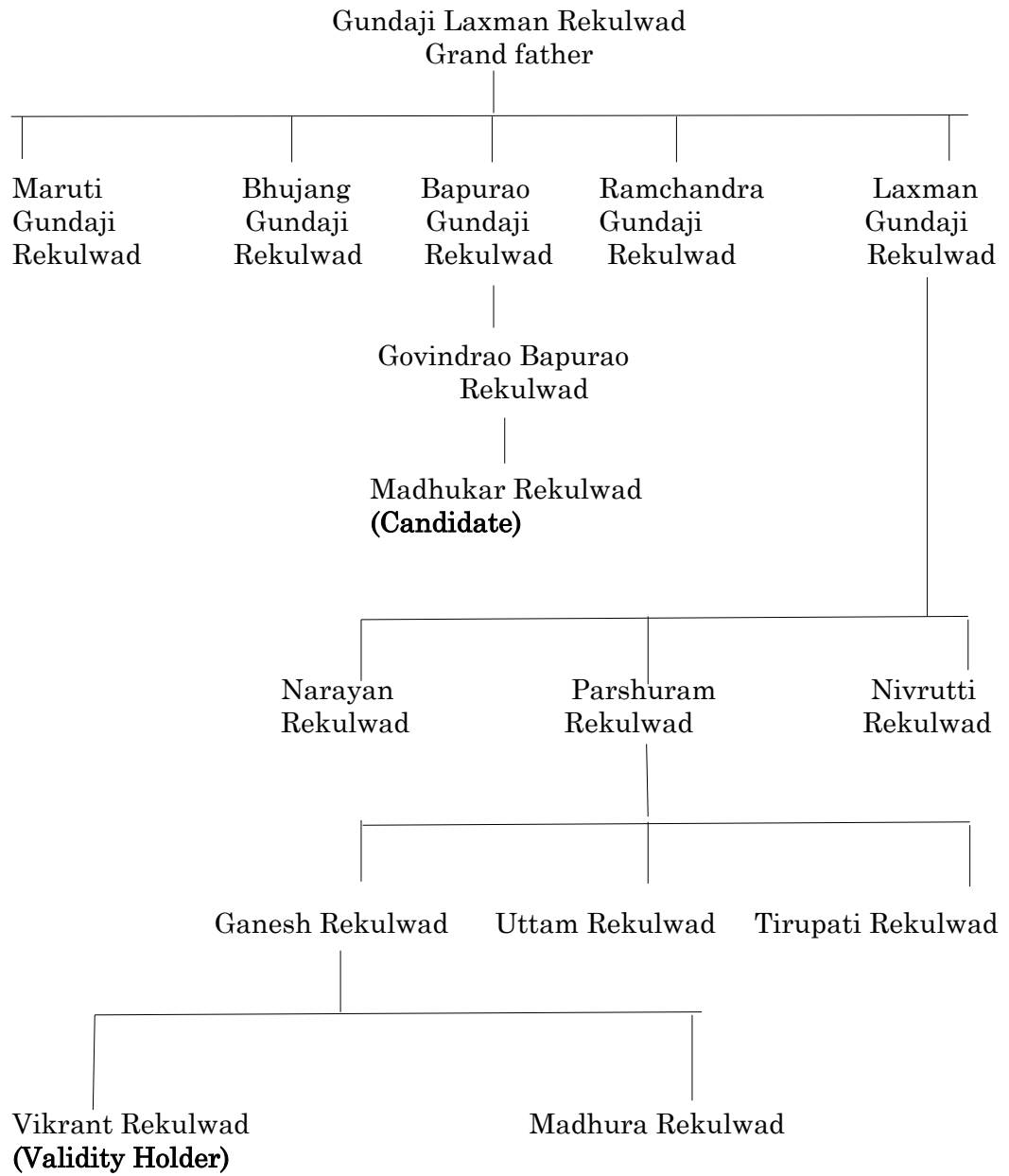
13. It also reflects from the record that a tampering was noticed in the school entry of Jalba, Balbhim and Madhukar. We do not see any reason to disbelieve the finding of tampering

recorded by the Scrutiny committee. At the same time, we do not approve the finding in respect of the Census entries of 1951 being inadmissible in evidence.

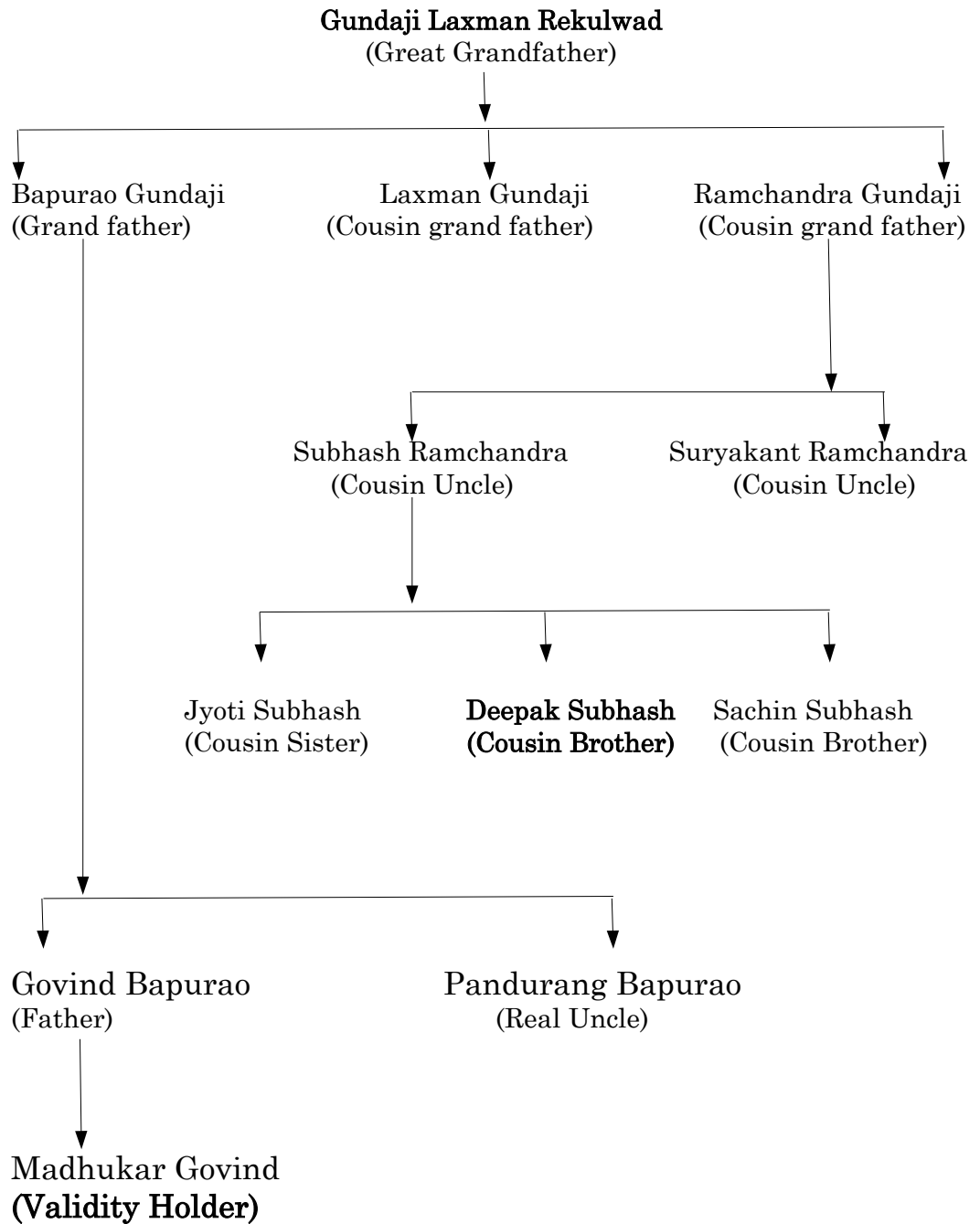
14. The learned Addl. G. P. has referred file of Madhukar, who is one of the validity holders. The signature on Form – E and his signature on an affidavit executed on 12.07.2013 which is produced in the file of Dilip do not match. Therefore, his affidavit is doubtful. The findings recorded by the Scrutiny Committee cannot be faulted.

15. The learned counsel for the petitioner has relied upon validity certificates of Vikrant, Madhukar, Dilip and Deepak. The learned Addl. G. P. has raised strong objection for the genealogies produced in the matter of present petitioner, Madhukar, Deepak and Dilip. Pertinently, the genealogies in the matters of Dilip, Madhukar and Deepak do not match with each others. Further these genealogies are totally inconsistent with the one referred by the petitioner at page No. 49 of the petition. Following are genealogies stated on affidavits by Madhukar, Vikrant and Deepak before the Scrutiny Committee.

A. Genealogy stated by Vikrant Ganesh Rekulwad.

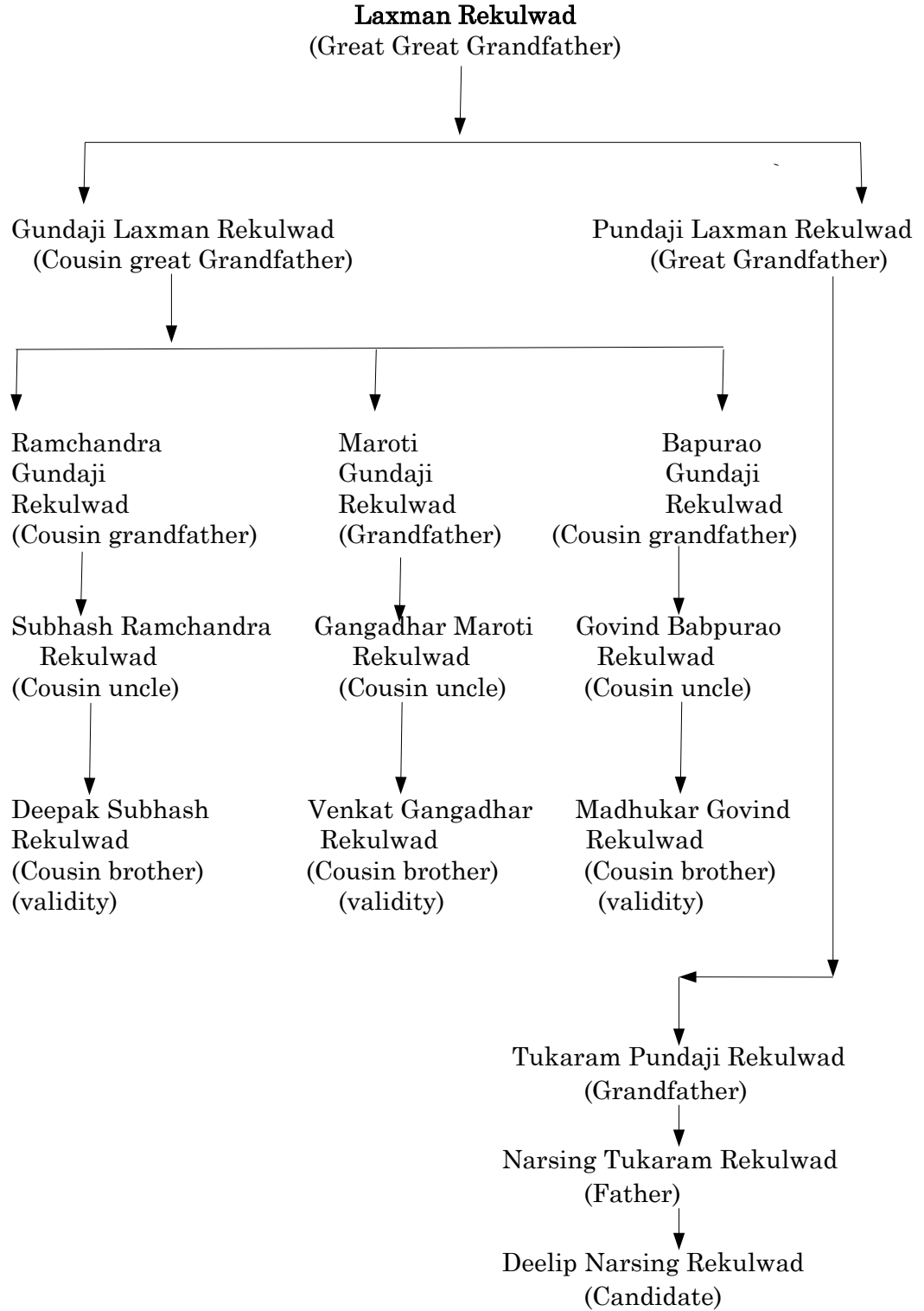


B. Genealogy stated by Madhukar Govind Rekulwad.





C. Genealogy stated by Deelip Narsing Rekulwad.



16. Madhukar who states genealogy on affidavit is not showing the branch of Pundaji at all of whom the petitioner is lineal descendant. Vikrant has filed genealogy on affidavit also does not show branch of Pundaji. Whereas Dilip on affidavit does not show branch of Santu. These inconsistent genealogies create serious doubt about relationship of the petitioner with the validity holders. The learned counsel for the petitioner has not tendered any explanation for inconsistencies in the genealogies pointed out by the learned Addl. G. P.

17. It would have been a different matter that only incomplete genealogies are produced on record. But what we noticed is that on affidavits the inconsistent genealogies are produced on record and shown to us. We have reason to infer that false affidavits are filed. It is common knowledge that the parties produce incomplete genealogy to suit the convenience. This tendency is of lessor evil than to produce the genealogies on false affidavit. We are shocked to notice that the branch of which the petitioner is lineal descendant is altogether absent in the genealogies produced by Madhukar and Vikrant. This conduct of the petitioner and her supporters cannot be overlooked. We are of the considered view that a fraud has been played to secure the social benefit. The petitioner is not related to the validity holders, which are sought to be relied upon by her in the present matter.

18. The learned Addl. G. P. has drawn our attention to the original papers of Dilip Narsing Rekulwad. He is the father of

the petitioner. It transpires from the papers that a show cause notice for reverification was issued to him on 07.07.2023. He has submitted reply on 25.07.2023. By an application submitted on even date, he requested the Committee to recall the validity certificate issued to him as he has secured the service from unreserved category. His matter is closed for orders. This conduct creates doubt about the genuineness of the caste claim of the petitioner.

19. The scrutiny committee has jurisdiction to conduct reverification of the validity certificates issued earlier. If a fraud is noticed, then the validity certificates can be revoked. While exercising extraordinary jurisdiction if it is noticed by the High Court that there is apparent fraud, then there is no reason to grant conditional validity and defer the matter for reverification. High Court is the guardian of the rights of the citizens under Article 14, 15, 16 and 21 of the Constitution of India. We feel that it is our bounden duty to keep watch on abuse of the constitutional provisions. The caste validation has a nexus with the lawful implementation of reservation policies. High Court has every jurisdiction under Article 226 of the Constitution, when it is seized with the matter of invalidation of the caste claim to prevent abuse of provisions of the Constitution. Otherwise, if the matter is left open for reverification despite noticing fraud, it would amount to perpetuation of fraud on Constitution. In that view of the matter, High Court cannot be a silent spectator for mischief mongers.

20. Considering the conduct of the petitioner, fraud disclosed from the papers and the contrary entries, we are not inclined to exercise our discretionary jurisdiction under Article 226 of the Constitution of India in favour of the petitioner. We do not find any illegality or perversity in the impugned judgment and order. We, therefore, dismiss the writ petition. There shall be no order as to costs. Rule is discharged.

[ SHAILESH P. BRAHME, J.]

[ MANGESH S. PATIL, J.]

*bsb/Sept. 23*