



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

**WRIT PETITION No.6426 OF 2019**

1. Ku. Alisha d/o. Mahendra Pinjarkar,  
Aged about 17 years,  
Occupation : Student,  
R/o. Mangilal Plot, Kamptee Road,  
Amravati.

2. Sahil s/o. Mahendra Pinjarkar,  
Aged 19 years,  
Occupation : Student,  
R/o. Mangilal Plot, Kamptee Road,  
Amravati.

: PETITIONERS

**...VERSUS...**

1. Research Officer and Member  
Scheduled Tribe Caste Scrutiny  
Committee, Amravati.

2. Shri Shivaji Education Society,  
Through its Secretary,  
Amravati.

3. The Principal,  
Samarth Nursing B.Sc. College,  
Ranpise Nagar, Akola.

: RESPONDENTS

Amended as  
per Court's  
order dated  
25.1.2021

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Shri S.P. Palshikar, Advocate for Petitioner.  
Shri N.R. Patil, Asstt. Government Pleader for Respondent No.1.  
Shri Manoj Sable, Advocate for Respondent No.2.

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**CORAM : A.S.Chandurkar & Urmila Joshi-Phalke, JJ.**

**DATE : 28<sup>th</sup> July, 2022**

**ORAL JUDGMENT : (Per : Urmila Joshi-Phalke, J.)**

1. Heard learned counsel for the parties.
2. Rule. Rule made returnable forthwith.
3. The petitioners belong to “Raj” Scheduled Tribe which is recognized as “Scheduled Tribe” as per entry No.18 in the Constitution (Scheduled Tribes) Order, 1950. It is the contention of the petitioners that they had been conferred with the caste certificates. The tribe claims of the petitioners were submitted to the respondent No.1-Caste Scrutiny Committee for validation. The petitioners had submitted documents of pre-independence era which are not considered by the respondent No.1-Caste Scrutiny Committee. The petitioner Nos.1 and 2 are pursuing their education after passing 12<sup>th</sup> Standard. The Caste Scrutiny Committee rejected the claim of the petitioners only on the basis of affinity. The Caste Scrutiny Committee invalidated the tribe claim on the ground that similar claim of one of the relatives Vijay Shankar Pinjarkar was invalidated by the Scrutiny Committee was not challenged. The respondent No.1-Caste Scrutiny Committee also assigned the reason that the caste claim of one of the relatives Ram Balkrushna

Pinjarkar was invalidated and he had not challenged the same.

4. As per the contention of the petitioners Maroti is the first ancestor who was having three sons Laxman, Haribhau and Ramuji alias Rambhau. Said Laxman had five sons i.e. Ramkrushna, Balkrushna, Damodhar, Kisan and Vitthal. Father of the petitioner Mahendra is the son of Balkrushna. The documents on record shows that Balkrushna Laxman i.e. grandfather of the petitioners is born on 1.4.1930. The School Leaving Certificate issued by the Primary School Asegaon Purna shows birth date of the great grandfather of the petitioners, namely, Laxmanrao Pinjarkar as 18.7.1929. His caste was recorded as “Raj”. Another cousin grandfather of the petitioners, namely, Kisan Laxmanrao Pinjarkar was born on 9.4.1926 as per the School Leaving Certificate issued by primary School Asegaon Purna. Thus, as per the contention of the petitioners there were ample documents on record to show that the petitioners belong to “Raj” Scheduled Tribe. However, the Scrutiny Committee had ignored the same and invalidated the claim. The said order passed by the respondent No.1-Scrutiny Committee is under challenge in the present writ petition.

5. On the other hand, Shri N.R. Patil, learned Assistant Government Pleader for the respondent No.1 submitted that the Scrutiny Committee was justified in refusing to grant any validity certificate and therefore the order passed by the respondent No.1-Caste Scrutiny Committee is correct one and the writ petition deserves to be dismissed.

6. Heard Shri S.P. Palshikar, learned counsel for the petitioners. He submitted that the Committee while invalidating the tribe claim considered irrelevant evidence and did not consider old documents which are of pre-independence era. The old documents which were placed on record before the Caste Scrutiny Committee by the petitioners and some of them were also collected by the Vigilance Cell were not considered by the Committee. There are several documents on record to show that the petitioners belong to "Raj" Scheduled Tribe. He submitted that as per the family tree Maroti is the first ancestor, who was having three sons, namely, Laxman, Haribhau and Ramuji alias Rambhau. Laxman had five sons i.e. Ramkrushna, Balkrushna, Damodhar Kisan and Vitthal. Father of the petitioners, namely, Mahendra is the son of Balkrushna. The documents on record shows that Kotwal register

entry regarding the birth date Balkrushna Laxman is 1.4.1930. The School Leaving Certificate issued by the primary school, Asegaon Purna shows that birth date of great grandfather of petitioners Laxmanrao Pinjarkar as 18.7.1929. His caste was recorded as “Raj”. Kisan Laxmanrao Pinjarkar is grandfather of the petitioners who born on 9.4.1926 as per the School Leaving Certificate issued by primary school Asegaon Purna. Another cousin great grandfather of the petitioners, namely, Namdeo Ramuji born on 19.1.1950. Vitthal Laxman born on 1.7.1922. Kisan Laxman born on 9.4.1916. Ramkrushna Laxman born on 1.4.1930 and Balkrushna Laxman also born on 1.4.1930. Thus, there are consistent entries showing caste “Raj” on the documents which are of pre-independence era. He further submitted that there is no dispute about the correctness of family tree. There was sufficient documentary evidence before the Caste Scrutiny Committee to grant validity certificate. But, the Caste Scrutiny Committee considered irrelevant documents and had not considered documents prior to 1950. He further pointed out that the Vigilance Cell procured some documents which shows that petitioners’ ancestors belong to “Raj” Scheduled Tribe.

7. As against this, learned Assistant Government Pleader submitted that the Scrutiny Committee was justified in refusing to grant any validity certificate. In earlier petition i.e. in petition filed by Vijay Shankar Pinjarkar his tribe claim was invalidated. At the relevant time this Court held that the petitioner Vijay Shankar Pinjarkar did not belongs to “Raj” Scheduled Tribe. The said judgment was then challenged to the Hon’ble Apex Court and the Hon’ble Apex Court also dismissed the petition.

8. After hearing both the parties at length and after perusing the record maintained by the Scrutiny Committee, apparently it shows that many documents placed on record by the petitioners as well as collected by the Vigilance Committee are the documents of pre-independence era. The school record, revenue record clearly goes to show that the caste of the ancestor, namely, Laxman, who is great great grandfather of the petitioners was recorded as “Raj”. The caste of Namdeo Ramuji, Kisan Laxmanrao, Ramkrushna Laxmanrao, and Balkrushna Laxmanrao were also recorded as “Raj”. Balkrushna Laxmanrao who born on 1.4.1930 and recorded as a “Raj” is the grandfather of the petitioners. His birth entry is of pre-independence era.

9. Shyam Balkrushna Pinjarkar, whose caste claim is invalidated by the Caste Scrutiny Committee had challenged the said order in Writ Petition No.5385/2019 by explaining the delay. In the said writ petition by passing order this Court had set aside the order of the Caste Scrutiny Committee and directed the respondent No.1-Caste Scrutiny Committee to issue validity certificate to him.

10. The Caste Scrutiny Committee came to the conclusion that the candidate's mother tongue is 'Marathi' which is not spoken in "Raj" Scheduled Tribe. The Surnames of the relatives from their community are reported as Pinjarkar, Mangrulkar, Waghmare etc. These Surnames are not associated with the people belonging to 'Raj' Scheduled Tribe. The information about the family and community deities, the marital ceremonies observed also did not resemble with that of 'Raj' Scheduled Tribe and invalidated the claim of the petitioners.

11. Learned Assistant Government Pleader had made a reference of the order passed in Writ Petition No.4277/2001 in respect of one Vijay Pinjarkar. The said petition came to be dismissed by the Single Bench of this Court. The said order was

challenged before the Hon'ble Apex Court vide SLP No.2182-2183/2011. It is observed by the Caste Scrutiny Committee that in view of the order of the Hon'ble Apex Court, the order of the High Court and the Caste Scrutiny Committee is maintained. The order passed in SLP No.2182-2183/2011 was not disclosed by Prashant Pinjarkar in his Writ Petition No.54/2000 which amounts to suppression of previous Court's order in respect of blood relations.

12. The findings recorded by the Caste Scrutiny Committee are totally erroneous and without application of mind. In the first place the order passed by the Hon'ble Apex Court in **SLP Nos.2182-2183/2011 dated 28/02/2011** in the case of **Vijay Shankarrao Pinjarkar** was in view of retirement of Vijay Pinjarkar during the pendency of the Special Leave Petition before the Hon'ble Apex Court. It was held by the Hon'ble Apex Court that :

*“The appellant was appointed under the Scheduled Tribe category in the year 1974. His certificate was referred to the Scrutiny Committee in the year 1999 and it was invalidated thereafter. It is the conceded position that consequent to the interim order granted by us the appellant had also continued to be in service and has retired in February, 2011. In view of these facts we do not at this belated stage feel that the appellant should be non-suited, notwithstanding the fact that his certificate has been invalidated by the Scrutiny committee and*



*his writ petition has also been dismissed by the High Court. We accordingly dispose of the appeals in the above terms and direct that the appellant shall be deemed to have continued in service till the date of his superannuation. The appellant will be given his retiral dues as per law.”*

13. Thus, the correctness of the findings recorded by this Court in the writ petition was not gone into while granting retiral benefits to the said petitioner.

14. If the Caste Scrutiny Committee would have perused the order passed by the Division Bench of this Court in Writ Petition No.54/2000 dated 06/10/2017 in the case of Prashant Damodhar Pinjarkar, this Court on the basis of various documents of pre-independence era considered and allowed the petition, whereas the judgment passed in Vijay Pinjarkar’s matter was by learned Single Judge. According to the Scrutiny Committee, Prashant Pinjarkar is the nephew of Vijay Pinjarkar and cousin brother of the present petitioners.

15. In the present matter also there is no dispute about the family tree which is produced on record. As per the family tree Maroti was the great great great grandfather of the petitioners.

Laxman, Haribhau, Ramuji alias Rambhau are the great great grandfather. The extract of school leaving register maintained by the school in respect of Laxman shows that his birth date was 1.4.1929 and his caste was recorded as “Raj”. Likewise Kisan Laxmanrao Pinjarkar’s birth date as 9.4.1926 and his caste was also recorded as “Raj”. There are consistent entries in respect of ancestors of the petitioners, namely, Namdeo Ramuji whose caste was recorded as “Raj” and birth date as 19.1.1915. Vitthal Laxman’s birth date as 1.7.1922 and his caste was recorded as Raj”. Ramkrushna Laxman and Balkrushna Laxman both birth date’s as recorded as 1.4.1930 and caste recorded as “Raj”. Thus, the entries consistently shows that ancestors of the petitioners belongs to tribe “Raj”. The documents which pertain to the close relatives of the petitioners prior to 1950 were discarded by the Scrutiny Committee on the ground that the entry of ‘Raj’ could not be verified from the school which is totally erroneous as there is nothing on record to show that at the relevant time such affidavit used to be maintained by the school. So far as reference of Pinjarkar’s family is concerned, the Division Bench of this Court has already set aside the decision of the Caste Scrutiny Committee invalidating the tribe claim of Prashant Damodar Pinjarkar and the certificate was also issued in

his favour treating his tribe as “Raj” Scheduled Tribe. Admittedly, the Vigilance Cell obtained the entries prior to pre-independence era, but they were not considered by the Caste Scrutiny Committee. Thus, there was ample evidence on record before the Caste Scrutiny Committee in the form of documents which are of pre-independence era showing the entry “Raj”. The Caste Scrutiny Committee failed to consider those documents in spite of earlier order of this Court dated 12.1.2021 in Writ Petition No.3724/2020. The Caste Scrutiny Committee failed to consider the documents which are of pre-independence era and were carrying great weightage/ probative value as they were referring the entry ‘Raj’. All these documents were of close blood relatives of the petitioners i.e. father, grandfather, great grandfather etc. There is no substance in the contention of the Caste Scrutiny Committee that the petitioners are speaking Marathi language and they are not following the customs of “Raj” community. The probative value of old pre-independence documents cannot be ignored on that basis. Moreover, in the matter of Prashant Pinjarkar, the Division Bench of this Court has already directed to issue certificate to Prashant Pinjarkar by showing his tribe as “Raj Scheduled Tribe”. The Caste Scrutiny Committee failed to appreciate that even Prashant

Pinjarkar is declared as “Raj Scheduled Tribe”. The said judgment is binding on the Caste Scrutiny Committee. The Caste Scrutiny Committee cannot on its own give importance to the oral statements by passing the judgment of the Division Bench of this Court.

16. In that view of the matter, the order passed by the Scrutiny Committee dated 6.7.2019 by which tribe claim of the petitioners invalidated is liable to be quashed and set aside. The order passed by the Scrutiny Committee dated 6.7.2019 invalidating the claim of the petitioners is liable to be quashed and set aside. We, therefore, pass following order :

**ORDER**

- (i) Writ Petition is allowed.
- (ii) The order dated 6.7.2019 passed by the Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati is set aside.
- (iii) It is declared that the petitioners, namely, Ku. Alisha Mahendra Pinjarkar and Sahil Mahendra Pinjarkar belong to “Raj” Scheduled Tribe which is Entry No.18 in the Constitution (Scheduled Tribes) Order, 1950.

(iv) The Scrutiny Committee shall issue validity certificate to the petitioners within a period of four weeks from the receipt of copy of this judgment. Till the validity certificate is issued to the petitioners, they are free to rely upon copy of this judgment to indicate that they belong to “Raj Scheduled Tribe”.

17. Rule is made absolute in the above terms. No order as to costs.

(Urmila Joshi-Phalke, J.)

(A.S.Chandurkar, J.)

वाडोदे