



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

WRIT PETITION NO. 8048 OF 2023

1. Arnav S/o Vipin Kedare,
Aged 19 years, Occupation : Student,
R/o. E-19, Konark Campus, Viman
Nagar, Pune-411014
2. Aryan S/o Vipin Kedare
Aged 22 years, Occupation : Student,
R/o. E-19, Konark Campus, Viman
Nagar, Pune-411014
3. Piyush S/o Milind Kedare
Aged 28 years, Occupation :
Student/Private Job, R/o. Flat No. 16,
Shivganga Enclave, Gokul Housing
Society, Gorewada Road, Nagpur -
440013

.... PETITIONERS

// VERSUS //

1. Vice-Chairman and Joint
Commissioner, Scheduled Tribe Caste
Certificate Scrutiny Committee,
Amravati
2. Sub-Divisional Officer, Tah.
Achalpur, District – Amravati

.... RESPONDENTS

Shri C.S. Dhore, Advocate for petitioners
Shri A.G. Mate, AGP for respondents

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

DATE OF RESERVING THE JUDGMENT: 20/09/2024
DATE OF PRONOUNCING THE JUDGMENT : 25/10/2024

JUDGMENT (PER: SMT. M.S. JAWALKAR, J.)

- (1) Rule. Rule made returnable forthwith.
- (2) Heard finally by consent of learned counsel appearing for the parties at the stage of admission.
- (3) Petitioners are challenging the order dated 16/06/2023 passed by the respondent No.1, Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati, thereby invalidating the tribe claim of the petitioners to be belonging to 'Halbi' Scheduled Tribe.
- (4) All the petitioners are brothers. Petitioner Nos. 1 and 2 are real brothers and petitioner No.3 is the cousin of petitioner Nos. 1 and 2. Petitioner No.1 is student of Hotel management and Catering Technology, petitioner No.2 is graduated in Science and is aspiring for Post Graduation in Management and is aspiring for Government job. The petitioner moved application for issuance of Caste Certificate of 'Halbi' Scheduled Tribe with all necessary documents as per Section 3

of the Act before Respondent No.2, Sub Divisional Officer which is Competent Authority under the Act. The proposal on behalf of petitioner No.1, Principal, Shri Hanumantrao Chate School and Junior Science College, Shahupuri, Kolhapur forwarded the proposal of petitioner No.2 and petitioner No.3 himself forwarded the proposal for validity to respondent No.1 for verification of Scheduled Tribe certificate along with original Scheduled Tribe Certificates and all required documents of their ancestors.

(5) It is submitted that there are several other documents such as sale deeds of the year 1947 and 1954 which tends to show that the ancestors of the petitioners belong to 'Halbi' Scheduled Tribe. On 30/11/2022, the Police Vigilance Cell submitted its report inter alia pointing out that Late Dasraji is great great grandfather of the petitioners and his date of death was 07/01/1920 mentioning his caste as 'Koshti' and the date of birth of male child born to great grandfather of the petitioners Baliram is found to be 19/12/2021 mentioning his caste as 'Koshti'. It is further submitted that the Vigilance Cell has grossly erred in holding that the aforesaid two persons are relatives of the petitioners. It is submitted that the Scrutiny Committee, Nagpur has issued validity in favour of the paternal cousin of petitioners Mr.

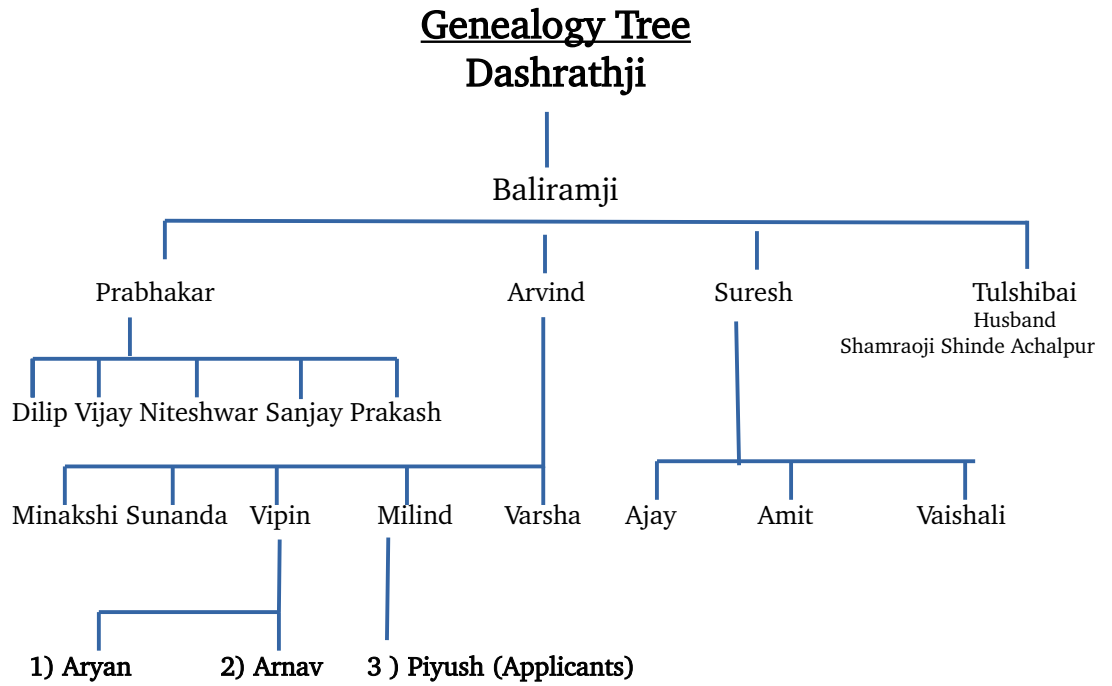
Ajay Suresh Kedare on 28/02/1996 showing that said cousin belongs to Halba Koshti caste and the same has attained finality as the same is not reversed till date. Despite availability of documents depicting that the petitioners belong to 'Halbi' Scheduled Tribe, vide impugned order, the respondent No.1 Committee rejected the tribe claim of the petitioners.

(6) The petitioners has produced following pre-independance documents produced before the Scrutiny Committee :-

Sr.No.	Type of document	Name	Caste	Date	Relation with petitioner
1	Leaving Certificate and Dakhal Kharij Extract	Arvind Baliram Kedare	Halbi	30/06/1948	Grandfather of Applicant Nos. 1,2 and 3
2	Extract of Kharedi Khat	Prabhakar Bhau Arvind S/o Baliramji Kedare	Halbi	15/12/1947	Cousin Grandfather of Applicant Nos. 1,2 and 3
3	Validity Certificate	Vipin Arvind Kedare	Halbi	28/02/1989	Father of Applicant Nos. 1,2 and uncle of applicant No. 3

(7) The genealogy produced by the petitioner before the

Scrutiny Committee is as under -



(8) Learned counsel for the petitioner contended that the petitioner belongs to 'Halbi' community which is substantiated on the basis of a Sale Deed dated 15/12/1947 by the cousin grandfather of the petitioners. School leaving certificate and Dakhal Kharij entry of the grandfather of the petitioners dated 30/06/1948, validity in favour of father of petitioner Nos. 1 and 2 and uncle of petitioner No.3 dated 28/02/1989 and several other documents which mentions petitioners caste as 'Halbi'.

(9) Learned counsel for the petitioner further contended that the respondent Scrutiny Committee erred in holding that despite Halbi being mentioned in the relevant documents which are of pre independence era of the ancestors of the petitioners, the same has not been accepted merely because at the relevant time 'Halba' and 'Halbi' were mentioned as sub-castes of the caste 'Koshti'. It is not for the respondent Scrutiny Committee to replace the import of entries in the record with its own misplaced opinion without any substantial evidence such finding of the Committee is already overruled in **Priya Parate's** case by this Hon'ble Court, therefore prayed for the interference by this court.

(10) Learned Assistant Government Pleader for the respondent- Scrutiny Committee has supported the judgment passed by the Scrutiny Committee and stated that there are other documents with other caste entries therefore the order passed by the Scrutiny Committee is appropriate which needs no interference by this Court and prayed for dismissal of the petition.

(11) Heard both the parties at length. Perused record of respondent Scrutiny Committee which was produced by learned

Assistant Government Pleader on record. The entries which were relied by the Scrutiny Committee for rejecting the claim of the petitioner are following two entries :

अ.क्र	कागदपत्राचे स्वरूप	कागदपत्रावरील व्यक्तीचे नाव	जमात	दिनांक	अर्जदादाशी नाते
1	मृत्यू नोंद	दसराजी रा.सुलतानपुरा	कोष्टी	7.1.1920	अर्जदार क. १,२ व ३ चे खापर पणजोबा
2	जन्म नोंद	बळीराम यांना एक मुलबा झाल्याची नोंद रा. समरसपूरा	कोष्टी	19.12.1921	अर्जदार क. १,२ व ३ चे आजोबा

(12) On the basis of these entries, the Scrutiny Committee arrived at a conclusion that there are different entries of forefathers of petitioners. In our considered opinion, these entries cannot be relied on by the respondent Committee as there are no further details of the said persons. Even their place of residents are also different. Admittedly, the documents produced by the petitioners are documents pertaining to pre-independence period and there are details of person i.e. Prabhakarbhau Arvind S/o

Baliramji Kedare, his tribe is shown as 'Halbi'. The said sale deed is dated 15/12/1947. Another document i.e. school leaving certificate of Arvind Baliram Kedare, whose date of birth is shown as July, 1941 and admission of Arvind Baliram Kedare in the school is shown as 30/06/1948. He was shown as belonging to 'Halbi' tribe. It is surprising that Caste Scrutiny Committee, in spite of two documents on record showing caste of the petitioner's forefather as 'Halbi' were not considered these documents and the documents having no further details connecting those persons to the petitioners was considered to reject the claim of the petitioners. The petitioner placed on record certificate issued in favour of Arvind Baliram Kedare (page 120) dated 03/06/1978, wherein his tribe is shown as 'Halbi'. He has also produced Scheduled Tribe certificate issued in favour of Vipin Arvind Kedare (page 123).

(13) The petitioner also produced on record judgment of this Court in Writ Petition No. 1587/1985, wherein, Milind Arvind Kedare was declared as belonging to 'Halba Koshti' and in view of

Writ Petition No. 2944/1984 decided on 4/5/6/1985, the petitioner is declared to be belonging to 'Halba' tribe. Petitioner also placed on record the certificate issued in favour of Ajay Suresh Kedare. The said provisional validity was issued in view of the order passed by Hon'ble Apex Court and directed to allow said Ajay to admit to the seat reserved for Scheduled Tribe. There is no dispute over genealogy, however, petitioner strongly objected the report of Police Vigilance Cell as the entries collected are of Achalpur, nor there was any details of the said persons about their fathers name or surname. It is common knowledge that there are many people having the similar name, however, to co-relate these persons to the petitioners, further details are required. When Committee is alleging that these two persons are in relation with the petitioner and their caste entries are shown as 'Koshti' that has to be established with material evidence. Similarity in the name may not be of any assistance to the Caste Scrutiny Committee. Another ground for rejection of the claim is affinity test. However, in view of the judgment of *Anand vs. Committee for Scrutiny*

*and Verification of Tribe Claim and others, 2011(6) Mh.L.J. 919, and Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti vs. State of Maharashtra and others, 2023(2) Mh.L.J. 785, affinity test cannot be applied as a litmus test while determining the claim of the candidate. This Court in Sou. **Priya w/o Pravin Parate Vs. Scheduled Tribes Caste Certificates Scrutiny Committee, Amravati and others, in Writ Petition No. 2571/2001**, observed that :*

“10.....

..... From the aforesaid authority, it would reveal that persons belonging to Halba Tribe had migrated to west and taken service under the Gond Kings of Chanda. It can also be seen that some of them had taken to weaving and had amalgamated with the Koshti caste in Bhandara and Berar. Merely because some stray entries as "Koshti" are recorded in respect of caste of some of the relative of petitioners from their paternal side; the voluminous documentary evidence of pre-Constitution era which clearly certify the · petitioners great-grand father and his brothers to be Halbi, could not have been lightly brushed aside by the Scrutiny Committee. As discussed herein above, the Hon'ble Apex Court in case of Anand (supra), found that the pre-independence documents have a greater probative value and they should be given due consideration while considering the claim of a tribal”

(14) In that view of the matter, we find that the Committee has grossly erred in rejecting the tribe claim of the petitioner. There are documentary evidence of pre constitution era in respect of great grandfather, cousin grandfather in school record and revenue records, the caste is recorded as 'Halbi'. It is not the case of the Scrutiny Committee that these documents are fraudulent or fabricated one. Thus, these documents have greater probative value. As such, claim of the petitioner could not have been rejected. Accordingly, we pass the following order :

ORDER

- (i) Petition is allowed.
- (ii) The impugned order passed by the respondent No.1 – Vice-Chairman and Joint Commissioner, Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati, dated 16/06/2023, is hereby quashed and set aside.

(iii) It is declared that the petitioners have duly established that they belong to 'Halbi' Scheduled Tribe.

(iv) The respondent Scrutiny Committee is directed to issue certificate of validity in favour of the petitioner certifying them belonging to 'Halbi' Scheduled Tribe, within a period of two weeks.

(15) Rule is made absolute in the above terms. No orders as to costs.

(SMT. M.S. JAWALKAR, J.) (AVINASH G. GHAROTE, J.)

Jayashree..