



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

WRIT PETITION NO. 5564 OF 2016

Sanjay Pralhadrao Kelkar,
Aged about 48 years, Occupation - Service,
R/o. In-front of Mahavir Nagar
Railway quarter Badnera road,
District Amravati.

.... **PETITIONER**

// VERSUS //

- 1) The Deputy Director/Chairman,
Scheduled Caste Scheduled Tribe
Caste Certificate Scrutiny Committee,
Bhatkuli Road, Amravati.
- 2) Chief Executive Officer,
Zilla Parishad Amravati,
District Amravati.

.... **RESPONDENTS**

WITH

WRIT PETITION NO. 4660 OF 2017

Ravindra Pralhad Kelkar,
Aged about 46 years,
Occupation – Primary Teacher,
R/o. Near Nikhil Pan Centre,
Mahavir Nagar, Badnera road,
Amravati -444 607.

.... **PETITIONER**

// VERSUS //

- 1) The Scheduled Tribe Certificate
Scrutiny Committee, Amravati Division,
Amravati through its Member Secretary,
Sun House, Chaprashipura, At & Post
Amravati – 444 601.
Email – tcscamr.mah@.nic.in.No.

- 2) State of Maharashtra,
Tribal Development Department,
Through its Principal Secretary,
Mantralay Extension, Madam Kama
Road, Mumbai – 400032.
Tel. 022-22793888 Fax:022-22833665
Email: tddcamp@gmail.com
- 3) Chief Executive Officer,
Through Education Officer (Primary),
Washim Zilla Parishad,
Washim – 440 001.
- 4) Panchayat Samiti, Karanja,
Through its Block Education Officer,
Karanja (Lad),
District Washim 441 203.

.... **RESPONDENTS**

WITH

WRIT PETITION NO. 4661 OF 2017

Ku. Jayashri Pralhad Kelkar,
Alias Smt. Jayashri W/o Sushil Samudrawar,
Occupation – Primary Teacher (Distt. Parbhani),
C/o Ravindra Pralhad Kelkar,
Near Nikhil Pan Centre,
Mahavir Nagar, Badnera road,
Amravati -444 607.

.... **PETITIONER**

// VERSUS //

- 1) The Scheduled Tribe Certificate
Scrutiny Committee, Amravati Division,
Amravati, through its Member Secretary,
Sun House, Chaprashipura, At & Post
Amravati – 444 601.
Email – tcscamr.mah@.nic.in.No.
- 2) State of Maharashtra,
Tribal Development Department,
Through its Principal Secretary,
Mantralay Extension, Madam Kama
Road, Mumbai – 400032.
Email: tddcamp@gmail.com

- 3) Chief Executive Officer,
Through Education Officer (Primary),
Parbhani Zilla Parishad,
Parbhani – 431 401.
- 4) Panchayat Samiti, Parbhani,
Through its Block Education Officer,
Parbhani - 431 401.

.... **RESPONDENTS**

Mr. Tushar U. Tathod, Advocate for the petitioners in all
petitions..
Mrs. Kalyani Deshpande, Assistant Government Pleader for
respondent No.1 in WP No.5564/2016 and respondent Nos.1
and 2 in WP Nos.4660/2017 and 4661/2017.

CORAM : **AVINASH G. GHAROTE AND**
URMILA JOSHI PHALKE, JJ
DATE : **07th SEPTEMBER, 2023.**

ORAL JUDGMENT : (Per **AVINASH G. GHAROTE, J.**)

Heard. **Rule.** Rule made returnable forthwith. Heard
finally by consent of the learned counsel appearing for the parties.

2. These three petitioners are by siblings and therefore the
facts in W.P. No.5564/2016 are being considered for the purpose of
deciding the claim.

3. The Scrutiny Committee by the impugned decision has
invalidated the tribe claim of the petitioners of belonging to
Schedule Tribe “Raj” in entry 18 for the State of Maharashtra in the
Presidential (Scheduled Tribe) Order 1950.

4. The genealogical tree is at page No.65. The learned AGP does not dispute the genealogical tree. She also does not dispute the documents i.e. birth certificates and school leaving certificates of grandfather of the petitioner, father of the petitioner and uncle of the petitioner and the entries made therein. The following chart would demonstrate the position of these certificates and their dates :-

अ. क.	नांव	उमेदवाराशी नाते	उपलब्ध पुरावा	पुराव्यात नमूद जात	शेरा	प्रमाणपत्र पान क्र.
1.	प्रल्हाद माधवराव केळकर	वडील	शाळेचा दाखला	राज	18/6/1943	40
2.	माधवराव सितोबा	आजोबा	जन्म प्रमाणपत्र	राज	29/5/1918	43
3.	माधो सिताराम	आजोबा	जन्म प्रमाणपत्र	राज	30/7/1928	44
4.	माधोराव सिताराम	आजोबा	जन्म प्रमाणपत्र	राज	11/2/1934	47
5.	विश्वनाथ माधव	काका	जन्म प्रमाणपत्र	राज	10/2/1947	46
6.	विश्वनाथ माधव	काका	जन्म प्रमाणपत्र	राज	21/8/1943	48

5. What is material to note is that all of these entries, which are pre-constitutional, indicate that the caste of the petitioner's grandfather Madhao S/o Sitaram, father Pralhad and uncle Vishwnath is recorded as "Raj". The birth certificate of Madhavrao Sitoba Raj, who is the grandfather of the petitioners, record his date of birth as 29.05.1918 and the surname of the father is "Raj" (page 43). This is duly supported by the corresponding entry (page 68) which is the extract of the Birth and Death Register for the month of

May 1918. The School Leaving Certificate of Jagannath, who is the real uncle of the petitioner, which is dated 24.04.1940 also records the caste as “Raj” (page 45). The corresponding entry in that regard in Date & Birth Register of Jagannath is 30.07.1928 (page 69). The School Leaving Certificate of Parlhada s/o Madhav dated 27.01.1989 also records the caste as “Raj” and the duration for which he has studied in the Karanja Nagar Parishad, School No.3, as 18.06.1943 to 01.05.1947 (page 41). There are other documents as indicated in the table above which also demonstrate that the caste of the grandfather of the petitioner Madhavrao Sitaram Kelkar has been recorded as “Raj”, all of which are pre-constitutional documents. Impugned decision of Scrutiny Committee dated 16.09.2016 (Page 27) does admit this position in para No.1, however, it inexplicably rejects the claim on the ground that the entries do not describe them as “Raj” Schedule Tribe by ignoring the position that the Presidential Notification declaring the tribe “Raj” as a Schedule Tribe is dated 29.10.1956.

6. In a series of judgments, right from *Apoorva D/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No.1 and others*, 2010(6) Mh.L.J. 401, *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra*, 2023(2) Mh.L.J. 785 to *Priya Gajbe Vs. State of Maharashtra*, 2023 SCC Online SC 909, it

has been consistently held that pre-constitutional documents have greater evidentiary value and entries made therein can be safely relied upon. However, ignoring this dictum, merely on the above ground, the learned Scrutiny Committee has rejected the claim.

7. In view of the entries made in the School Leaving Certificates, Birth and Death registers, all of which are pre-constitutional documents and have not been disputed by the learned AGP, since they record the caste as “Raj” of the grandfather, father and uncle of the petitioner and the fact that these documents and the entries made therein are not disputed by the learned Assistant Government Pleader Smt. Kalyani Deshpande, there cannot be any two opinions about the veracity and genuineness of the entries made therein, which unequivocally demonstrate that the ancestor of the petitioner belong to the Tribe “Raj” which has been declared as a Schedule Tribe by way of amendment dated 29.10.1956 in entry 12 (Part IV) which has been carried forwarded as entry 18 in the amendment to the Presidential (Scheduled Tribe) Order 1950, dated 18.09.1976.

8. In that view of the matter, the impugned decisions of the Scrutiny Committee cannot be sustained and same are hereby quashed and set aside. The Scrutiny Committee is directed to issue caste validity certificates to the petitioners as they belong to “Raj”

Schedule Tribe as per entry 18 of the State of Maharashtra in the Presidential (Scheduled Tribe) Order 1950. The Committee shall issue the certificates to the petitioners by 11.09.2023. The learned AGP to communicate this decision to the Scrutiny Committee.

9. In the circumstances there shall no order as to costs. Rule is made absolute in the above terms.

(URMILA JOSHI PHALKE, J.)

(AVINASH G. GHAROTE, J.)

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