



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

WRIT PETITION NO.6205/2023

Pragati d/o Pradip Shinde @ Pragati
w/o Vishwas Chavan
aged 24 years, Occu- Private Job, R/o
Mapari Galli, Lonar, Tah. Lonar, Dist.
Buldana.

....PETITIONER

...VERSUS...

The Chairman, the Schedule Tribe
Caste Certificate Verification
Committee, Amravati Division, Dist.
Amravati.

...RESPONDENT

Shri Gunjan Kothari, Advocate for petitioner
Ms Deepali Sapkal, AGP for respondent-sole

CORAM : VINAY JOSHI AND SMT. M.S. JAWALKAR, JJ..

DATE OF RESERVING THE JUDGMENT: 20/06/2024

DATE OF PRONOUNCING THE JUDGMENT: 24/06/2024

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

Rule. Rule made returnable forthwith. Heard finally by
consent of learned Counsel for the respective parties at the stage of
admission.

2. The petitioner by this petition is challenging the order passed by the respondent- The Schedule Tribe Caste Certificate Verification Committee, Amravati by which caste validity of the petitioner is rejected.

3. It is submitted by the petitioner that he belongs to 'Thakur' Scheduled Tribe. The tribe claim was referred before respondent Committee for its verification. She has submitted various relevant documents in support of her tribe claim including pre-independence documents. The Sub Divisional Officer, Buldhana, after perusal of documents hold that petitioner belongs to 'Thakur' Scheduled Tribe and thereby issued Scheduled Tribes Certificate. The respondent Committee invalidated the tribe claim on the ground that affinity is not established and wrongly relied upon documents pertains to unknown persons. Therefore, petitioner seeks relief of quashing and setting aside the impugned order and for direction to issue validity certificate to the petitioner as she belongs to 'Thakur' Scheduled Tribe.

4. Apart from these documents, she has also relied on validity certificate issued in favour of Anil Shinde, who is cousin's cousin of petitioner.

5. Learned Assistant Government Pleader produced original record of the Caste Scrutiny Committee and also submitted that there are contrary entries showing relatives of the petitioner as Rajput, Maratha, Marathe, etc. Therefore, there is no fault in the order passed by the Caste Scrutiny Committee.

6. Heard both the parties, perused record produced by the learned AGP and impugned judgment.

7. It appears that following old documents were placed on record along with other documents.

Name	Relation	Document	Date of document	Caste
Narayan Bhaurao	Grandfather	School leaving certificate	31/03/1945	Thakur
Balaji Bansi Thakur borne one son	Great-grandfather	Registration of birth	11/09/1937	Thakur

(Narayan)				
Narayan Bhaurao Shinde	Grandfather	First page of service book	Date of birth 19/11/1939	Thakur
Sitaram Balaji	Cousin great-grandfather	Registration of death	28/03/1943	Thakur
Aasari Bhaurao Thakur	Sister of grandfather	Registration of admission and leaving	12/06/1953	Thakur
Pralhad Bhaurao Shinde	Cousin grandfather	School leaving certificate	16/06/1950	Thakur
Narayan Bhaurao Thakur	Grandfather	Registration of admission and leaving school	31/03/1945	Thakur
Gulab Ramchandra	Cousin cousin grandfather	School leaving certificate	31/03/1950	Thakur
Anil Janardhan Shinde	Cousin cousin brother	Validity certificate by Aurangabad Committee	05/06/2010	Thakur

From these documents, if seen along with other documents it is clear that documents consistently showing caste 'Thakur'. In addition to that, the petitioner placed on record validity certificate issued by Aurangabad Committee to the cousin's cousin of petitioner that is Anil Janardhan Shinde.

8. So far as documents are concerned, which was collected

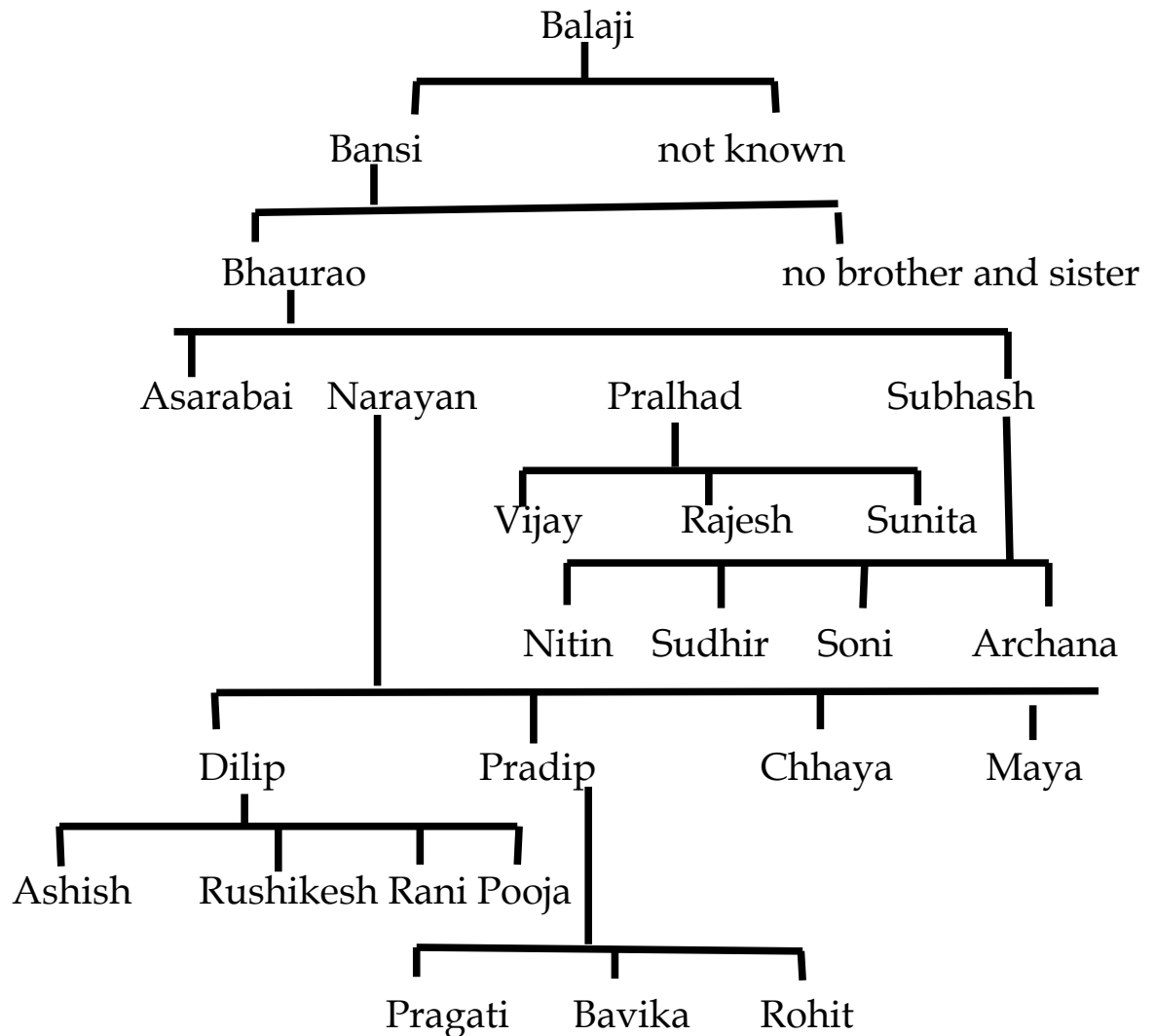
by Vigilance Cell in respect of Bansi, Gambhirrao Bhaurao, Kisanrao Narayanrao, Shriram Sakharam, Baburao Bhaurao, those are showing contrary entries as per report. On this basis Committee rejected claim of petitioner.

9. So far as contrary entries are concerned, the petitioner has duly explained on affidavit that these persons are not in relation whose caste is shown as Maratha, Rajput, Marathe, etc. Following are the contrary entries collected by vigilance:

Name	Relation	Document	Date of document	Caste
Bansi having one girl child	Great great grandfather	Birth registration	27.01.1917	Rajput
Gambhirrao Bahurao	Cousin grandfather	Dakhal kharij register	01.10.1930	Maratha
Kisanrao Narayanrao	Uncle	Dakhal kharij register	27.06.1931	Marathe
Shriram Sakharam	Maternal uncle	Dakhal kharij register	28.11.1945	Maratha
Baburao Bhaurao	Cousin grandfather	Dakhal kharij register	01.09.1947	Maratha

10. It can be verified from the family tree collected by the Vigilance Cell. These names do not match with the members of family tree. The family tree is produced as under:

Family Tree



11. There is name Bansi in the document collected by the Vigilance Cell, however, his further details are not there on record.

Moreover, there is no daughter shown in the family tree to Bansi. It is common knowledge that there are many persons of one name in one village. Unless there is specific further details are there in the documents, it cannot be said to be in relation with the petitioner. So far as Gambhirrao is concerned, there is no son by name Gambhir to Bhaurao. Similarly, Narayanrao is not having any son by name Kisanrao. So far as Shriram Sakharam is concerned, there is no person by this name in relation to the petitioner in entire family tree. Similarly, Baburao Bhaurao is concerned, Bhaurao is having no son by name Baburao. The petitioner's father specifically denied the relationship of these above five persons with the father of petitioner on affidavit. Affidavit in view of above observation support the fact that entries of persons on which Caste Scrutiny Committee relied, are no way in relation with the petitioner. Petitioner also placed on affidavit in respect of these persons that surname of Bhaurao Baburao and Gambhirrao was Deshmukh. Similar affidavit in respect of Baburao Bhaurao and in respect of Kishanrao Narayanrao are also placed on record.

12. The validity certificate issued in favour of cousin is discarded by the Scrutiny Committee on the ground that it is issued by Aurangabad Committee and it is not known whether it was issued after conducting vigilance inquiry. The grounds for rejection by Scrutiny Committee is that petitioner failed to establish affinity test and there are old contrary entries showing Rajput, Marathe, Maratha in respect of her relatives. The ground of rejection for discarding validity certificate of blood relatives is illegal as there is no law, which restrict the validity certificate only to the area to which the scrutiny committee has its jurisdiction.

13. Learned Counsel for petitioner place reliance on *Ashlesha and others versus The Vice-Chairman/Member Secretary, Scheduled Tribe Caste Certificate Scrutiny Committee and others dated 29/11/2023, in Writ Petition No.7328 of 2022*, wherein it is held that, “when petitioner specifically denied by filing affidavit that the said entries procured by the Vigilance Cell are not the relatives of the petitioner and only by some common

names, the Committee cannot conclude that those are in respect of family members of petitioner". On perusal of these five names, it is clear that the names of father or son are different than in the family tree. When the Committee came with a specific case that there are adverse entries in respect of the relatives of the petitioner. The Committee has to established connection or the relation with the petitioner. In absence of any such connection/relation, the Caste Scrutiny Committee totally acted arbitrarily and without application of mind.

15. In *Writ Petition No.2685 of 2022 Ku. Shravani d/o Ganesh Wankhede versus State of Maharashtra and others*, held as under:

"Once the validity certificate is granted to a claimant, it becomes conclusive proof of the social status acquired by that person for all purposes and in any territory where such proof is required to be submitted. Therefore, such validity certificates can also be used as having sufficient evidentiary value in the caste or tribe claim raised by the other paternal relatives of a person in whose favour those certificates are issued. We, therefore, find that the reasoning adopted by the Scrutiny Committee is wrong and we are also of the view that only on the basis of the

validity certificates issued in favour of the paternal relatives of the petitioner, the petitioner is also entitled to have his tribe certificate validated by the Scrutiny Committee, especially when it has not been shown that these validity certificates have been revisited on the ground that they were obtained by fraud or by making misrepresentation or by suppressing material facts having a bearing on the claim made by these paternal relatives of the petitioner."

16. What is held in *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti V/s. State of Maharashtra and orthers reported in 2023 SCC Online SC 326*, by Hon'ble Apex Court as under:-

"5. Now, we come to the controversy regarding the affinity test. The Vigilance Cell, while conducting an affinity test, verifies the knowledge of the applicant about deities of the community, customs, rituals, mode of marriage, death ceremonies etc. in respect of that particular Scheduled Tribe. By its very nature, such an affinity test can never be conclusive. If the applicant has stayed in bigger urban areas along with his family for decades or if his family has stayed in such urban areas for decades, the applicant may not have knowledge of the aforesaid facts. It is true that the Vigilance Cell can also question the parents of the applicant. But in a given case, even the parents may be unaware for the reason that for several years they have been staying in bigger urban areas. On the other hand, a person may not belong to the particular tribe, but he may have a good knowledge about the aforesaid aspects. Therefore, Shri Shekhar Naphade, the learned senior counsel, is right when he submitted that the affinity test cannot be applied as a litmus test. We may again note here that question of

conduct of the affinity test arises only in those cases where the Scrutiny Committee is not satisfied with the material produced by the applicant."

17. As such, without considering around 8 old documents, which are prior to cut-off date, the Caste Scrutiny Committee erroneously considered the entries of the persons, which are not in relation to the petitioner. Similarly, when there is validity certificate issued in favour of relative of petitioner from paternal side that can be ignored only in the event of receiving evidence that the tribe validity certificate have been obtained by playing fraud.

18. In *Apoorva Nichale V/s. Divisional Caste Certificate Scrutiny Committee No. 1 and ors.* [2010 (6) Mh.L.J. 401, it is held in para 7 as under:-

"7. 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."

19. It is not the case of the Committee that the tribe validity certificate earlier issued in favour of relative of the petitioner has obtained either by fraud or by coercion. It is time and again held by this Court as well as Hon'ble Apex Court that the affinity test is not a litmus test and that documents of pre-constitutional era is of great probative value in the eyes of law.

20. What is held in *Anand vs. Committee for Scrutiny and Verification of Tribe Claim, (2012)1 SCC 113*, is reiterated by the Hon'ble Apex Court in *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti (supra)*.

"It is held that affinity test will not be conclusive either way. When an affinity test is conducted by Vigilance Cell, the result of the test along with all other material on record having probative value will have to be taken into consideration by the Scrutiny Committee for deciding the tribe validity claim and in short, affinity test is not a litmus test to decide a tribe claim and is not essential part in the process of the determination of correctness of a caste or tribe claim in every case."

21. In the light of above discussion and factual position, in our considered opinion, considering the pre-constitutional documents, having higher probative value and the validity issued in favour of blood relative of the petitioner, the tribe claim of the petitioner ought to have been considered by the committee giving appropriate weightage to Tribe Validity Certificate issued to the family members so also the pre-constitutional documents. As such, the impugned order is on the face of it erroneous, perverse and cannot be sustained in the eyes of law, hence, liable to be quashed and set aside. Accordingly, we proceed to pass the following orders:

ORDER

- i) The Writ Petition is allowed.
- ii) The order dated 11/07/2023 passed by the respondent/ The Chairman, the Scheduled Tribe Caste Certificate Verification Committee, Amravati Division, Amravati, in Case No. सआ / अजप्रतस / अम / 5/500/EDU/022020/163773 is

hereby quashed and set aside.

iii) It is declared that the petitioners belong to 'Thakur' Scheduled Tribe which is at entry No.44 in the Constitution (Scheduled Tribes) Order, 1950.

iv) The Schedule Tribe Caste Certificate Verification Committee, Amravati is directed to issue validity certificate to the petitioner within a period of four weeks from the date of receipt of copy of this order.

v) Till the petitioner receives Caste Validity Certificate, she is free to refer copy of this order to indicate that she has been held entitled to receive Validity Certificate as belonging to 'Thakur' Scheduled Tribe.

22. Rule is made absolute in above terms. No costs.

JUDGE

R.S. Sahare

JUDGE