



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 7757 OF 2024

1) Ajay Dattatraya Bandewad
Age : 28 years, Occ. Student
R/o At Kolwadi Post Rokada
Sawargaon Tq.Ahmedpur
Dist.Latur.

...Petitioner

Versus

1) The State of Maharashtra
Through Its Secretary
Tribal Development Department,
Mantralay, Mumbai-32

2) The Scheduled Tribe Certificate
Verification Committee, Kinwat Headquartered,
at Aurangabad, through its Member Secretary,

3) Maharashtra Animal and Fishery Sciences University,
Futala Lake Road, Seminary Hills,
Nagpur, Maharashtra-440006

4) College of Veterniary and Animal Sciences,
Kaulkhed Road, Nideban, Udgir,
Tq.Udgir, Dist: Latur-413 517
Through its Associate Dean.

...Respondents

...

Advocate for Petitioner : Mr. Boinwad Omgashad B.

AGP for Respondent No. 1 : Mr. V.M.Kagane

Advocate for Respondent Nos. 3 and 4 : Mr. Krishna P. Rodge
h/f Mr. Pratap G. Rodge

**CORAM : S. G. MEHARE AND
SHAILESH P. BRAHME, JJ.**

RESERVED ON : 11 DECEMBER 2024

PRONOUNDED ON : 20 DECEMBER 2024

JUDGMENT (Per : Shailesh P. Brahme,J)

. Heard

2. Rule is made returnable forthwith. Heard both sides finally at the admission stage.

3. Petitioner is challenging judgment and order dated 08.09.2023 passed by respondent no.2/Scrutiny Committee confiscating and invalidating the tribe certificate. He is also soliciting directions to the respondents nos. 3 and 4 to release the documents withheld by them.

4. Petitioner claims to be belonging to Scheduled Tribe Koli Mahadeo. He was given admission through reserved category in the respondent no. 4 / College for the courses of B.V.Sc and A.H. He had paid full tuition fees as the certificate of validity was not submitted.

5. Petitioner is relying on validity certificate issued to Jyoti Waman Bandewad/ cousin aunt and the entries in the school record of his blood relatives. The genealogy produced by him before the committee has also been relied on to show his

relationship with Jyoti. The school entry of his father/Dattatraya of the year 1980 is the oldest amongst other entries.

6. Learned Counsel for the petitioner Mr. Boinwad submits that Jyoti was issued with validity certificate after following due procedure of law and it is still intact. Hence that would enure to the benefit of the petitioner. It is further submitted that relationship of the Jyoti with the petitioner has not been disputed before the Committee. The entries in the school record of the blood relatives of the petitioner supports his case. He would further submit that the validity certificate of Jyoti has been discarded by perverse reasons.

7. Learned Counsel for the petitioner also submits that during the vigilance enquiry, the validity certificates of Waman, Gangadhar, Rahul and Sopan were traced. Without granting any opportunity to the petitioner, those were considered by the committee while rejecting the tribe claim. Those validities were also not mentioned in the vigilance report. He submits that matter needs to be remanded to the committee for extending opportunity to the petitioner to deal with the validities and his relationship with the holders.

8. It is further argued that petitioner is entitled to receive the documents withheld by respondent nos.3 and 4. The reliance is placed on the judgments of Hon'ble Supreme Court in the matter of **Mrudula vs. State of Maharashtra** in Special Leave to Appeal No. 15902/2023, **Priyanka Balaji Wadikar and Anr. vs. State of Maharashtra** in Civil Appeal No. 6482 of 2023, **Saurabh vs. State of Maharashtra** in Special leave to Appeal No. 17179-17180/2021, **Barkha Rajesh Manik vs. State of Maharashtra & Ors.** in Writ Petition No. 3464 of 2015 and **Mayuri Shrikrishna Punjarwad vs. The State of Maharashtra** of this Court.

9. Per contra, AGP supports impugned judgment and order. He has tendered on record the original files of petitioner and validity holder Jyoti. It is submitted that Jyoti is not the blood relatives of the petitioner which can be demonstrated from the genealogy given by the petitioner and his statement. It would be a fraud on the part of the petitioner to represent that Jyoti is cousin aunt. It is further submitted that in the case of Jyoti no vigilance inquiry was conducted and banking on validities of her father Waman and Rahul she was issued with validity certificate. It was not issued after following due procedure of law. It is further submitted that there is consistent incompatible school record against the petitioner. Only entry which supports the

claim is of his father of 1980. It is submitted that under facts and circumstances, affinity test was imperative and it was against the petitioner.

10. Learned AGP submits that although committee referred to validities of four persons namely Waman, Gangadhar, Rahul and Sopan, they are not actually pitted against petitioner. Independent of those validities, petitioner's claim can be dealt with. He would oppose the remanding the matter to the committee.

11. Learned Counsel Mr. Krishna Rodge submits that the petitioner was being admitted to the college on the basis of reservation. In case impugned judgment is confirmed by this Court then the petitioner is liable for the actions by following judgment of Hon'ble Supreme Court in the matter of **Chairman and Managing Director FCI and Ors. vs. Jagdish Balram Bahira and Ors.** reported in AIR 2017 SC 3271. It is submitted that petitioner is not entitled to the documents which are withheld.

12. We have considered rival submissions of the parties and gone through relevant papers from the original files submitted by the respondents.

13. Petitioner relied on validity certificate of Jyoti Waman

Bandewad being paternal side cousin aunt. He also relied on various school records. His fathers school entry of 1980 was the oldest amongst them. During vigilance, few more incompatible school record of the blood relatives of the petitioner was traced which was older than school record of his father. Besides that, four validities were also traced but those were not mentioned in the vigilance report. Only in the impugned judgment, those are referred which are as follows.

अ.क्र.	दावा कर्त्याचे नाव	अर्जदाराशी नाते	दाव्याचा निकाल	निर्णयाचा दिनांक	शेरा
1	वामन पंढरी बंडेवाड	चुलत आजोबा	वैध	18.12.2007	
2	गंगाधर वामन बंडेवाड	चुलत काका	वैध	06.11.2008	
3	श्राहुल वामन बंडेवाड	चुलत काका	वैध	16.01.2020	
4	सेपान दिगांबरराव बंडेवाड	चुलत आजोबा	वैध	09.05.2011	

14. It is vehemently contended by the petitioner that he is surprised by the validities discovered and used against him directly in the judgment. The learned AGP in this regard has fairly admitted that these validities were not disclosed in the vigilance report of the petitioner. The committee has only recorded in its paragraph no. 7 that above validities of the blood relatives of the petitioner were traced. No further finding, much less to the detriment of the petitioner has been recorded by the committee. These validities are not contrary to the record. Learned AGP conceded the fact that the matter can be considered independently on merit by ignoring those validities.

15. Under above facts and circumstances we do not find it necessary to remand the matter to the committee. No prejudice would be caused to the petitioner. Those validities were not voluntarily relied by him. Rather he preferred not to rely those validities and relied on validity of Jyoti Vaman Bandewad. We propose to consider the matter on merits ignoring those validities. Therefore the prayer for remand is rejected.

16. The relationship of Jyoti with the petitioner is highly disputed by the respondents. The petitioner relied on the genealogy which was provided in form F before the committee to show his relationship with Jyoti.

17. It has been pointed out by learned AGP that Jyoti did not file any affidavit before the Committee disclosing her relationship with the petitioner. We have verified the said facts from the original papers. We came across altogether different genealogy given by petitioner himself on 22.11.2018. In the said genealogy the branch of Jyoti's father is not figuring out. The following genealogy was given on 22.11.2018.

18. The petitioner is relying on inconsistent genealogies one given on affidavit and another was given before Vigilance Officer. Waman is not seen in the above genealogy. Jyoti is the

daughter of Waman. More surprisingly in the statement of the petitioner recorded on 22.11.2018, it was admitted by him that great grandfather Dattu had only one son Bhujang who was not having brothers or sisters. This disclosure is not only damaging but bordering the fraud. He himself has shown Waman, father of jyoti as real brother of Bhujang on affidavit. Learned AGP is right in his submission that Jyoti is not the blood relative of the petitioner. The petitioner has misled the committee.

19. It is transpired from the original record that no vigilance was conducted in the matter of Jyoti. In her case reliance was placed on the school record and validities of her brother and father. We find that her relationship with the petitioner is doubtful. Her validity certificate would not enure to the benefit of the petitioner.

20. The school record of petitioner's father of 1980 is the oldest one which is relied. The school record of the blood relatives traced during the vigilance inquiry is contrary to the tribe claim disclosing caste as Hindu Koli. His reply to the vigilance report is not satisfactory for the entries of Balaji Shamrao Bandewad and Waman Pandhari Bandewad. The explanation was that due to illiteracy they were recorded to be Koli. In the absence of reliable material, we need to consider

the affinity test. The petitioner could not withstand the same which is apparent from the original file. Though affinity test is not the litmus test, the result of the affinity test carries significance in given facts and circumstances.

21. Our attention is adverted to the ratio laid down in the matter of **Shubham Kishor Suryawanshi and other Vs. State of Maharashtra and Anr.** in Writ Petition No. 4350 of 2024 of this Court. The Coordinate Bench made following observations :

“12 If the entire favourable record produced by the petitioners is of recent period, from the year 1979 onwards, obviously, it will have inherent limitation in substantiating a caste or tribe claim, inasmuch as there is every possibility of such entries having been made objectively to derive the benefit. Therefore, although merely because this is a post independent record it cannot be out-rightly rejected, application of affinity test would become imperative. We, therefore, are of a firm view that no fault can be found with respondent No.2-Scrutiny Committee in applying the affinity test.”

22. The validity of Jyoti is not reliable. Her relationship with the petitioner is doubtful. The petitioner's inconsistent stand led us to infer that it is apparent fraud on his part to derive the benefit of validity of Jyoti to show her as the cousin aunt. We are not inclined to grant discretionary relief to the petitioner in writ jurisdiction. We do not find that there is perversity or patent illegality in rejecting the tribe claim.

23. The petitioner had secured admission to the college through reservation. He is bound to face the consequences as

laid down by Hon'ble Supreme Court in the matter of Union of India Vs. FCI. The orders of the Supreme Court in the matter of **Saurabh** (supra) and in the matter of Priyanka (supra) would assist him to the extent of receiving the original documents other than degree certificate of B.V.Sc and A.H. We therefore pass following order :

ORDER

- i) Writ Petition is partly allowed.
- ii) The petitioner shall be entitled to receive documents of leaving certificate and other documents not related to his graduation in B.V.Sc and A.H.
- iii) The Rule stands discharged in the above manner.

[SHAILESH P. BRAHME, J.]

[S. G. MEHARE, J.]

V.S.J.