



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1527 OF 2025

- 1] Akshay S/o Ashok Savadh
Age : 27 years, Occu : Education
- 2] Yogesh S/o Satyanarayan Savadh
Age : 29 years, Occu : Education
- 3] Aakansha D/o Ashok Savadh
Age : 24 years, Occu : Education
- 4] Mangesh S/o Satyanarayan Savadh
Age : 26 years, Occu : Education

All R/o. Dorgaon, Tq. Majalgaon,
Dist. Beed

.. Petitioners

Versus

- 1] The State of Maharashtra
Department of Tribal Development,
Mantralaya, Mumbai – 32
Through its Secretary
- 2] The Scheduled Tribe Certificate Scrutiny
Committee, Chhatrapati Sambhajinagar
Division, Chhatrapati Sambhajinagar
Through its Member Secretary

.. Respondents

...
Advocate for the petitioners : Mr. Vivekanand U. Jadhav
AGP for the respondent – State : Mrs. P.J. Bharad
...

**CORAM : MANGESH S. PATIL &
PRAFULLA S. KHUBALKAR, JJ.**

DATE : 28 FEBRUARY 2025

ORDER (MANGESH S. PATIL, J.) :

The petitioners are blood relatives *inter se* and are taking objection to the judgment and order of respondent no. 2 - scheduled tribe certificate scrutiny committee (**committee**), in a proceeding under

section 7 of the Maharashtra Act No. XXIII of 2001 dated 17.01.2025, refusing to validate their 'Koli Mahadev' scheduled tribe certificates.

2. Rule. It is made returnable forthwith. AGP waives service. At the joint request of the parties, the matter is heard finally at the stage of admission.

3. The learned advocate for the petitioners vehemently submits that irrespective of the observations of the committee, admittedly, there are enormous validities in the family and the petitioners are entitled to derive benefit of those validities. Even if the stand of the committee about some validity holders having practised fraud and seeking to undertake re-enquiry into those validities, till the time the committee is successful in recalling the validities, the petitioners cannot be denied the benefit of those validities.

4. He would submit that the earlier validity holders including Ashwini Satyanarayan Savadh, who is the real sister of petitioner - Yogesh and Mangesh and that of Ashok Manikrao Savadh, who is father of the petitioner - Akshay and Aakash, were issued with the certificates of validity by following due process of law and following the decision in the matter of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others; 2023 SCC Online SC 326***, the petitioners are entitled to bank upon those validities.

5. Learned advocate for the petitioners would submit that recently this Court has held one Ujwala Dnyaneshwar Savadh and Santosh Dnyaneshwar Savadh who are third degree cousins of these petitioners, to be entitled to have certificates of validity. Besides, there are several other validities in the blood relationship through the branch of Maroti who is the real brother of great grandfather of these petitioners as also petitioners great grandfather by name Sonaji Dagadu and great grandfather of Ujwala and Santosh by name Ganpat Dagdu Savadh.

6. Learned advocate would submit that contrary to the trite principles, the committee has resorted to and has applied affinity test illegally. The impugned judgment and order is perverse and arbitrary and be quashed and set aside and reversed.

7. Learned AGP submits that there is manipulation in the genealogy. Branch of Ganpat stated to be the great grandfather of Ujjwala and Santosh, has been added subsequently. There are enormous contrary entries in the school record and rampant manipulation as mentioned in the impugned judgment and no fault can be found with the committee in refusing to extend benefit of these validities in the family who have been able to procure the validities by suppressing contrary school record wherein the family members were described as 'Koli' which is not a scheduled tribe. Even the

manipulations could be revealed only recently during the vigilance enquiry in the petitioners' matters. There are no favourable entries and the petition be dismissed.

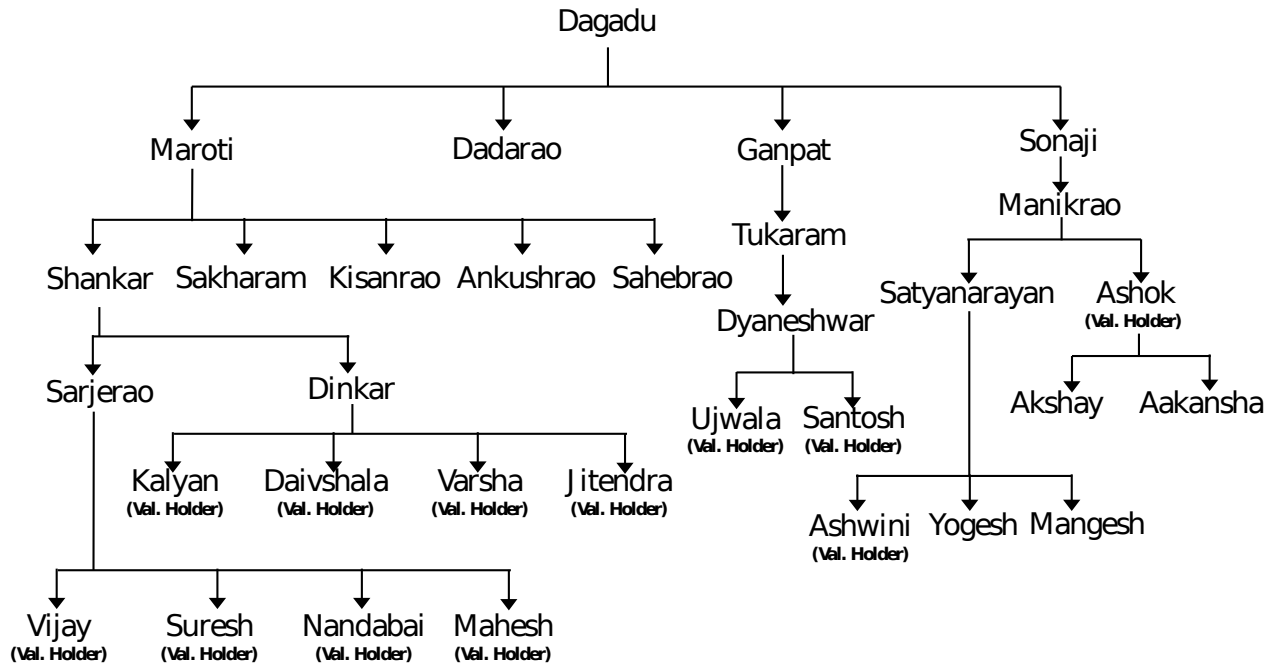
8. We have considered the rival submissions and perused the papers.

9. Bearing in mind the parameters laid down by the Supreme Court in ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others; 2023 SCC Online SC 326***, the petitioners are entitled to rely upon validity of Ashok Manikrao Savadh father of petitioners - Akshay and Aakansha and paternal uncle of the other two petitioners who was issued with a certificate of validity pursuant to the vigilance enquiry and by a reasoned order dated 01.10.2009 (**Exhibit - F**). The committee has sought to take exception to this order on the ground that one Law Officer of the committee by name Mr. B.V. Shirurkar acted as a member secretary contrary to the composition contemplated under relevant rules of 2003 framed under the Maharashtra Act No. XXIII of 2001. However, it has conveniently overlooked the fact that according to rule 9 of those rules, the decision of the scrutiny committee constituted under Maharashtra Act No. XXIII of 2001, has to be by majority. When the decision in the matter of Ashok was rendered by a committee comprising of three members, even if Mr. Shirurkar could not have, but had acted as a member of the

committee, that would not go to the root of the decision / order of the scrutiny committee passed in the matter of Ashok. Therefore, the observation of the committee to take exception to this validity on the ground of composition of the committee, is not legally sustainable.

10. Even if now some doubt is being entertained by the learned AGP based on absence of any branch of Ganpat, the validity possessed by Dnyaneshwar Tukaram Savadh, who is none other than the aforementioned Ujwala and Santosh's father. A copy of the order in the matter of Dnyaneshwar dated 18.12.2010 placed on the record (*page 126 of the paperbook*) reveals that Dnyaneshwar had relied upon validity of Ashok Manikrao Savadh, father of petitioner - Akshay and Aakansha.

11. Interestingly, Dnyaneshwar had relied upon validity of one Suresh Sarjerao Savadh whereas Ashok had relied upon validity of one Vijay Sarjerao Savadh and Vijay and Suresh happen to be the real brothers. In order to appreciate this state-of-affair, we reproduce the genealogy relied upon by the petitioners and reproduced by the committee in the impugned judgment and order:



12. In view of such state-of-affairs, when there are these many validities in the family, couple of which have been issued by the order of this Court, in the matter of Ujwala Dnyaneshwar Savadh and Santosh Dnyaneshwar Savadh, the petitioners are entitled to have certificates of validity.

13. Even if the committee has now castigated Ashok Manikrao Savadh and Ashwini Satyanarayan Savadh of having resorted to manipulation, that would not be sufficient to refuse the validity till the time, the committee is able to successfully recall those validities.

14. Incidentally, the committee has refused to even consider the validities of Vijay Sarjerao Savadh, Ujwala Dnyaneshwar Savadh and Santosh Dnyaneshwar Savadh on the ground that the petitioners had

not submitted their affidavits as is required by rule 11 of the Rules of 2003, in our considered view, the rule can only be treated as a directory one and not mandatory one. When a fact is to be proved on the basis of preponderance of probability, there cannot be any regulation as to how it could be proved. Conversely, there cannot be a rule mandating that a fact has to be proved only in a particular manner, more so, when it is a case of social status to be established by variety of evidence. Be that as it may. In view of enormous validities in the family, which are in force and apparently issued by following due process of law, the petitioners are entitled to have certificates of validity. The impugned judgment is not sustainable in law and is liable to be quashed and set aside.

15. The writ petition is allowed partly.

16. The impugned order is quashed and set aside.

17. The respondent - committee shall immediately issue tribe validity certificates to the petitioners as belonging to 'Koli Mahadev' scheduled tribe in the prescribed format without adding anything. The validities shall be subject to the final outcome of the matters which the committee has decided to re-open.

18. The petitioners shall not be entitled to claim equities.

19. Rule is made absolute in the above terms.

[PRAFULLA S. KHUBALKAR]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/