IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

Writ Petition No. 6203 Of 2004
With
Civil Application No. 492 Of 2025
And
Civil Application No. 2009 Of 2016

1. Dr. Deepak s/o Balasaheb Kachave
Age : 28 years, Occupation-Service,
R/o. Indewadi, Pokharni,
Dist. Parbhani

2. Vijaysingh s/o Balasaheb Kachave
Age : 28 years, Occupation-Service,
R/o as above. **.. Petitioners**

Versus

1. The State of Maharashtra
Through Secretary,
Social Welfare Department,
Mantralaya, Mumbai-32.

2. The Divisional Social Welfare Officer,
Aurangabad Division, Aurangabad and
VJ Caste Certificate Verification Committee,
Divisional Social Welfare Office
Aurangabad
Through its Secretary.

3. The Sub Divisional Officer
Office of SDO at Sailu
Sailu, Dist. Parbhani.

4. Zilla Parishad
Aurangabad
Through its Chief Executive Officer

5. The Collector,
Collectorate
Parbhani. **.. Respondents**

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* ***Advocate for the Petitioners*** : Mr. Rajendrraa Deshmukkh, Senior Advocate a/w Ms. Vikhyati Jain i/by Mr. Amol R. Joshi.

* ***AGP for Respondent Nos.1, 3 and 5*** : Mr. D.R. Korde

* ***Advocate for Respondent No.4*** : Mr. S.M. Gunjkar holding for Mr. Deelip Patil Bankar

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

RESERVED ON : 03rd MARCH 2025

PRONOUNCED ON : 12th MARCH 2025

FINAL ORDER (Per Shailesh P. Brahme, J.) **:**

1. Heard finally.

2. The Petitioners who are real brothers, are challenging judgment and order dated 29.10.2003 passed by the Scrutiny Committee, invalidating their tribe certificates of Rajput Bhamta, Vimukta Jati.

3. Petitioners are relying on validity certificates of Baliram Sakharam Kachave dated 04.04.1986; Dilip Shivajirao Kachave dated 07.07.1993; Sanjay Kishan Kachave dated 09.04.1992; Anuja Ankush Kachave dated 26.09.2006; Adesh Akashrao Kachave dated 29.10.2020. Learned Senior Counsel Mr. Rajendra Deshmukh submits that Baliram, Dilip and Sanjay were issued

with validity certificates by erstwhile competent authorities, which is not challenged. The Committee did not notice any fraud in the record produced by the Petitioners as well as the validities pressed into service. A vigilance inquiry was conducted in the matter. The school record of 08.07.1972 of Petitioner No.2 indicating caste as Rajput Bhamta is the oldest record.

4. Learned Senior Counsel submits that findings recorded by the Committee are perverse. The Committee arbitrarily discarded the validities issued prior to pronouncement of judgment of Supreme Court in the matter of **Kumari Madhuri Patil and Ors. Vs. Addl. Commissioner, Tribal Development and Ors.**, AIR 1995 SC 94. It is further submitted that it is perversity to hold that evidence prior to 1971 was not produced.

5. Learned Counsel for the Petitioners relied on the following judgments :

(i) Raju Vasave Vs. Mahesh Bhivapurkar
(2008) 12 SCR 992

(ii) Anand Vs. Committee for Scrutiny and Verification of Tribe Claims and Others, (2012) 1 SCC 113

(iii) Gayatrilaxmi Nagpure Vs. State of Maharashtra and Others
1996 (2) MhLJ 4002

(iv) Apoorva Nichale Vs. Divisional Caste Certificate Scrutiny Committee, 2010 (6) MhLJ 401

(v) Sharmishtha Thakur Vs. State of Maharashtra,
Writ Petition No.7053/2011

(vi) Asra Fatema d/o Zakir Ali Ahmed Vs. State of Maharashtra, Writ Petition No.920/2021

6. Per contra, learned AGP would support impugned judgment and order. He would submit that the validities which are pressed into service, are unreliable because they were not issued after following due procedure of law. In the matter of Baliram and Dilip, no vigilance inquiry was conducted. The Committee has taken a reasonable and plausible view. Hence, no interference is called for.

7. We have considered the rival submissions of the parties. We have gone through the genealogy, wherein the names of the validity holders are figuring. Learned AGP as well as the Committee did not express any reservation for the relationship of the Petitioners with the validity holders. Petitioners have pressed into service validities of paternal side blood relatives. Baliram and Dilip were issued with validity certificates prior to commencement of the Act.

8. We have gone through the order dated 04.04.1986 passed by the Divisional Commissioner, Appellate Authority, issuing certificate to Baliram Kachave. By a reasoned order, his appeal was allowed. The said decision was not challenged further. In pursuance of that decision, he was issued with validity certificate. Similarly, Dilip was also issued with validity certificate by considering the documentary evidence which can be reflected from the record. His validity was also issued before the commencement of

the Act. These validities were issued by the then competent authorities, whose jurisdiction is not challenged by the Respondents. That time act and statutory procedure were not in force, but caste certificate verification was regulated by prevalent norms or the policies.

9. In the latest judgment of **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and Ors.**, 2023 SCC Online SC 326, Supreme Court had occasion to consider as to when validity certificate can be relied upon. If the validity certificate is issued by following due procedure of law, then that can be said to be corroborative. It is not the purport of ratio of Supreme Court that validities issued prior to enforcement of act would render invalid. We, therefore, hold that validities of Baliram and Dilip support Petitioners' claim.

10. Learned Senior Counsel Mr. Rajendrra Deshmukh for the Petitioners relied on the judgment of coordinate bench in the matter of Sharmishtha Thakur (supra). The following is the relevant extract :

> "6. It is in view of such state of affairs and the law, the impugned order expressly refusing to take cognizance and extend the benefit of the validity possessed by one Yashwant Maharu Pawar is clearly perverse and arbitrary. No dispute has been raised by the committee about any relationship between the petitioner and Yashwant Maharu Pawar and few other blood relatives, namely, Kalyani Bhagwat Pawar, Sunanda Babulal Pawar, which have been expressly referred to by the scrutiny committee in the impugned order. The reason assigned by the committee not to extend the benefit of these validities is to the effect that those certificates of validity were issued prior to the enactment of the Maharashtra Act XXIII of 2001, when the decision of the Supreme Court in the matter of Ku. Madhuri Patil and another Vs. Additional Commissioner, Tribal Development, Thane and others; (1997) 5 SCC 437 was holding the field. The procedure of the Caste Scrutiny Committees prior to coming into force of the Act was not streamlined. It was regulated by instructions. The authorities were not experts and the orders passed by such authorities were not fitting in the legal framework."

11. He also relied on judgment of Asra Fatema d/o Zakir Ali Ahmed (supra). Following is the relevant paragraph :

> "6. It is in view of such state of affairs and the law, the impugned order expressly refusing to take cognizance and extend the benefit of the validity possessed by one Yashwant Maharu Pawar is clearly perverse and arbitrary. No dispute has been raised by the committee about any relationship between the petitioner and Yashwant Maharu Pawar and few other blood relatives, namely, Kalyani Bhagwat Pawar, Sunanda Babulal Pawar, which have been expressly referred to by the scrutiny committee in the impugned order. The reason assigned by the committee not to extend the benefit of these validities is to the effect that those certificates of validity were issued prior to the enactment of the Maharashtra Act XXIII of 2001, when the decision of the Supreme Court in the matter of Ku. Madhuri Patil and another Vs. Additional Commissioner, Tribal Development, Thane and others; (1997) 5 SCC 437 was holding the field. The procedure of the Caste Scrutiny Committees prior to coming into force of the Act was not streamlined. It was regulated by instructions. The authorities were not experts and the orders passed by such authorities were not fitting in the legal framework."

12. The view taken by the coordinate benches, we find that the validities of Baliram and Dilip cannot be discarded just because they were issued with validities prior to commencement of Act or prior to the judgment of Supreme Court in Kumari Madhuri Patil (supra).

13. There are other validity holders who are paternal side relatives like Adesh, Anuja and Sanjay. It is contended that in case of Adesh, no vigilance was conducted. Even if validity of Adesh is ignored considering earlier validities, Petitioners cannot be deprived of same social status. Unless earlier validities are revoked, Petitioners cannot be denied the benefit of social status.

14. Next reliance is placed on **Anand Vs. Committee for Scrutiny and Verification of Tribe Claims and Others**, (2012) 1 SCC 113. We have gone

through paragraph nos. 18 to 22. In view of ratio laid down in paragraph no.22, we accept the submissions of the Petitioners that affinity test conducted in the present matter is not decisive and cannot be a sole criteria to reject the claim. We are fortified by the latest judgment of the Supreme Court in the matter of Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti (supra).

15. Learned Senior Counsel for the Petitioners has also relied on the judgment in the matter of Apoorva Nichale (supra). Considering the observations of the Supreme Court in paragraph nos. 7 to 9, the validities pressed into service in the present matter would enure to the benefit of the Petitioners.

16. Considering the record and the submissions of the parties, we find that it is perversity for the Committee to invalidate the tribe certificate. In the wake of the validities of the blood relatives, the requirement of documentary evidence of pre-constitutional period or period prior to 1971 is not imperative. We find impugned judgment and order is unsustainable. We, therefore, pass following order :

ORDER

(i) Writ Petition is allowed.

(ii) Impugned judgment and order is quashed and set aside.

(iii) The Respondent/Scrutiny Committee shall issue validity certificates of Rajput Bhamta Vimukta Jati to the Petitioners forthwith.

(iv) Civil Applications stand disposed of.

[SHAILESH P. BRAHME]
JUDGE

[S.G. MEHARE]
JUDGE

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