

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION

WRIT PETITION (ST) NO. 5566 OF 2026
WITH
INTERIM APPLICATION NO. 1368 OF 2026

Vijaykumar alias Vijaysingh
Vasantrao Desai
Age: 48 years; Occu: Agriculture;
R/o: Plot No. 5, Jyotirling
Colony, Ring road,
Phulewadi-Bondrenagar,
Tq. Karveer, Dist. Kolhapur ...Petitioner

Versus

1. The State of Maharashtra
Through its Secretary
Social Justice and Special
Assistance Department
2. The District Collector
Kolhapur
3. The Sub-Divisional Officer 3
Karveer,
Dist. Kolhapur
4. The Municipal Commissioner
Kolhapur Municipal Corporation,
Main Building, Shivaji Chowk,
C-Ward, Post Box No. 33,
Kolhapur
5. The District Caste Certificates
Scrutiny Committee, Kolhapur
Through its Member Secretary,

Baba Saheb Ambedkar Samajik
Nyay Bhavan, Vicharemaal,
Kolhapur

6. Nand Kumar Pise
Age: Major; Occu:
A/p Near Diana Castle, 258/34,
Bhosale Sangulkar Nagar,
Ring road, Kolhapur

...Respondents

Mr. R. K. Mendadkar with Mr. Ashish A. Chavan, Mr. D. L. Gote, i/b. Mr. Shrishail Sakhare, for the Petitioner.

Ms. Tejas J. Kapre, AGP for the Respondent Nos.1 to 3 & 5-State.

Mr. Abhijit M. Adagule, for the Respondent No.4-Corporation.

Shrikrishna R. Ganbavale with Mr. Shantanu Patil & Mr. Ashirwad Kolekar, for the Respondent No.6.

**Coram : Sharmila U. Deshmukh &
Neeraj P. Dhote, JJ.**

**Reserved on : October 07, 2026.
Pronounced on: October 19, 2026**

JUDGMENT : (Per Neeraj P. Dhote, J.)

1. By consent of both the sides heard finally at the admission stage.
2. Impugned in this petition is the order dated 25th June 2016 passed by the Respondent No.5 - Scrutiny Committee, invalidating the Petitioner's claim as belonging to 'Kunbi' - Other Backward Class (**OBC**). The Petitioner applied for the caste certificate as belonging to the 'Kunbi' to the competent authority. The caste certificate was accordingly issued to the Petitioner as belonging to 'Kunbi'. The Petitioner contested the elections dated 15th January 2026 to the Kolhapur Municipal Corporation from the ward reserved for OBC. The Petitioner was declared elected from Ward No. 9A. The Respondent

No.6 got defeated in the said elections against the Petitioner. The Respondent No. 6 raised the objection to the caste claim of the Petitioner. The Respondent No.5 - Scrutiny Committee initiated the proceedings for verification of the caste claim of the Petitioner and referred the matter to the Vigilance Cell for necessary inquiry. The Vigilance Cell conducted the inquiry and submitted its report. The Respondent No.5 - Scrutiny Committee issued notice to the Petitioner with the copy of the vigilance report, to which the Petitioner filed his reply along with the supporting documents. The Respondent No.5 - Scrutiny Committee invalidated the caste claim of the Petitioner by the impugned order.

3. It is submitted by learned counsel for the Petitioner that the Petitioner relied on the pre-Constitution era document of Anusaya, who was the paternal aunt of the Petitioner's father showing her caste as 'Kunbi'. The genealogy was submitted to the Respondent No.5 - Scrutiny Committee. The Vigilance Cell during inquiry found the said pre-Constitution era document as genuine. During the home inquiry, the persons with whom the inquiry was made stated that, the Petitioner belonged to 'Kunbi' caste. The statements of the persons recorded during the vigilance inquiry are consistent. Without any basis, the Respondent No. 6 - Complainant, disputed the relation between the Petitioner and Anusaya. The Petitioner filed his detailed reply to the

notice issued by the Respondent No.5 - Scrutiny Committee. After hearing, the case was closed and thereafter some documents were collected by the Respondent No.5 - Scrutiny Committee and the impugned order was passed. The document in the name of Kisna, showing the caste as Maratha/Marathi, was not related to the Petitioner. On the basis of the entry of Kisna, which was also of the pre-Constitution era, the Petitioner's claim came to be invalidated. The school leaving certificate in the name of Dinkar Atmaram Desai showed that, many relevant columns were left blank and therefore the caste mentioned therein as 'Maratha' will not be sufficient to invalidate the Petitioner's claim. The Respondent No.5 - Scrutiny Committee discarded the Vigilance Cell report without any reasons. He submitted that, considering the documents on record, the impugned order be set aside and the petition be allowed.

4. It is submitted by learned AGP and learned counsel for Respondent No. 6-Complainant, that the pre-Constitution era document of Dinkar, who was related to the Petitioner from father's side, showed the caste as Maratha. The documents showing the caste as Kunbi were of recent period. They submitted that, the Respondent No.5 - Scrutiny Committee has properly passed the impugned order on the basis of the documents on record and no interference was called for, and the petition be dismissed.

5. We had called the record of the Petitioner's caste claim from Respondent No.5 - Scrutiny Committee. We perused the same.

6. The Petitioner's claim is for 'Kunbi' caste, which comes in OBC category. The Petitioner submitted the affidavit in Form-3 (Code of Civil Procedure, 1908, Order XVIII Rule 4) showing the following genealogy:



7. The Petitioner primarily based his claim on the pre-Constitution era document in the name of Anusaya, which is the birth entry dated 16th August 1921 in the revenue record. The said entry was in the revenue record of the Tahsildar, Karveer, and the extract in Village Form No. 14 was issued to that effect. The certified copy of the same is on record at page No. 365. The said entry is the birth entry of the girl child Anusaya to Atma Babu Desai and the caste is mentioned as 'Kunbi'. The record shows that, the Vigilance Cell inquired about the said entry with the Tahsil office, Karveer, and got the photocopy of the same. The Vigilance Cell records in its report that, there was no interpolation of

any nature in the said entry. The vigilance report shows that, the said entry was genuine.

8. The Vigilance Cell report shows that, during the home inquiry, they recorded the statements of five (5) persons. Out of them, three (3) were not related to the Petitioner, two (2) were related to the Petitioner, and one (1) was Respondent No. 6, complainant. The statements of the three (3) witnesses, who were not related to the Petitioner, shows that, they supported the Petitioner's claim as belonging to Kunbi caste. Their statements show that, they knew the forefathers of the Petitioner. The statement of the other two witnesses, who were related to the Petitioner, also supports the Petitioner's claim. It becomes clear from the Vigilance Cell report that, except the statement of Respondent No. 6 – Complainant, nothing adverse to the caste claim of the Petitioner has been recorded.

9. It appears that, the Respondent No. 6 – Complainant had submitted the birth entry showing that, a son Kisna was born to Atma Babu Desai on 2nd September 1919, wherein the caste is mentioned as 'Marathi'. The certified copy of the said entry of 2nd September 1919 in the name of Kisna is at page No. 219. It shows that, son Kisna was born to Atma Babu Desai on the said date and the caste is mentioned as 'Marathi'. There cannot be any dispute that 'Marathi' is a language widely used in the State of Maharashtra and not a caste. It would be too

technical and also impermissible to presume that 'Marathi' means 'Maratha'. Therefore, the said entry by itself will not prevail over the entry dated 16th August 1921 of Anusaya wherein the caste is mentioned as 'Kunbi'. Except bare contention, nothing concrete is brought on record by the Respondent No. 6 - Complainant to support his contention that Kisna was related to the Petitioner from the paternal side. It is worth to note that, the Vigilance Cell report is silent in respect of Kisna.

10. The Page No. 367 of the record shows that, the Respondent No.5 - Scrutiny Committee, by communication dated 19th June 2023 addressed to the Headmaster, Vidya Mandir, Kasba Beed, Taluka Karveer, District Kolhapur, sought the information in respect of Dinkar Atmaram Desai to verify the school leaving certificate of Dinkar Atmaram Desai submitted by the Petitioner. At Page No.369 of the record, is the information supplied by the Headmaster of the said Vidya Mandir School that, in the school register of the year 1915-27, the name of Dinkar Atmaram Desai was mentioned in Register No. 5, wherein his caste is shown as 'Maratha' and the date of birth is mentioned as 1st April 1919. The information in respect of the admission in the school is kept blank. If we see the dates of birth of Krishna and Dinkar, the difference is of five (5) months and two (2) days. Both of them are shown as the sons of Atmaram. We find substance in the contention of learned counsel for the Petitioner that, it

is impossible that after the birth of Dinkar in April 1919, Kisna was born on 2nd September 1919 to wife of Atmaram.

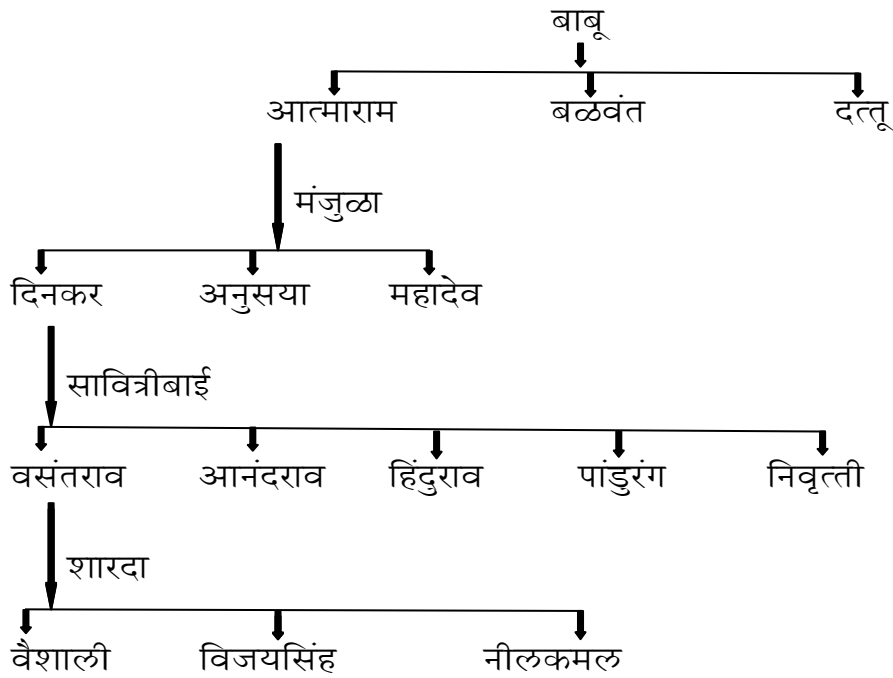
11. The Respondent No.6-Complainant further relied on the birth entry dated 17th March 1924 showing that, a son Mahadev was born to Atma Babu Desai. The certified copy of the said entry is at Page No. 221. The said entry shows that, the caste mentioned therein is 'Marathi'. Undisputedly, the entry of 1924 is later than the entry of the year 1921 of Anusaya. Further, the record shows that, the Respondent No.6 - Complainant supplied the certified copies of the entries dated 20th June 1922 showing that son-Rajaram was born to Dattu Babu Desai and birth entry dated 29th September 1925 in respect of birth of Bapu to Dattu Babu Desai. The certified copies of the said birth entries are at page 223 and 225. In both the said entries, the caste is mentioned as 'Marathi', which, as observed above, is the language and not the caste.

12. The record shows that both the sides argued the matter before the Respondent No.5 – Scrutiny Committee on 16th June 2026 and the file was closed for order. The record shows that the Respondent No.5 – Scrutiny Committee, thereafter, addressed a letter dated 19th June 2026 written to the Headmaster of Vidya Mandir, Kasba Beed, Taluka Karveer, District Kolhapur and sought the opinion in respect of Dinkar Atmaram Desai and, thereafter, the information was provided by the Headmaster of the said school, which is at page No.369 of the record. The same

shows that, the caste of Dinkar was mentioned as 'Maratha' in the school record. However, the information at Page No.369 did not give the details as to when Dinkar was admitted to the said school. At Page No.269 of the record, there is the certified xerox copy of the school leaving certificate issued by the Headmaster, Vidya Mandir, Kasba Beed, Taluka Karveer, showing the name of the student as 'Dinkar Atmaram Desai', caste as 'Maratha' and the date of birth as 1st April 1919. However, the columns from Nos.7 to 13 in respect of the name of previous school, the date of admission to the school, academic performance, the behavior in the school, the date of leaving the school, studying in which class and reason for leaving the school are kept blank. The remarks at Sr. No. 14 shows that, as the register was soiled, only one part of information was available. This being so, the said 'Maratha' entry will not be sufficient to discard the Petitioner's claim in absence of any material to show as to when the said information was entered in the school record. The possibility of entering the said information of 'Dinkar' in the school record is most likely after 16th August, 1921, which is the birth entry of Anusaya, as the admission in the school can be made after certain age. Had there been material on record to show that, the caste entry of Dinkar as 'Maratha' in the school record was prior to the said birth entry of Anusaya, it would have had more probative value.

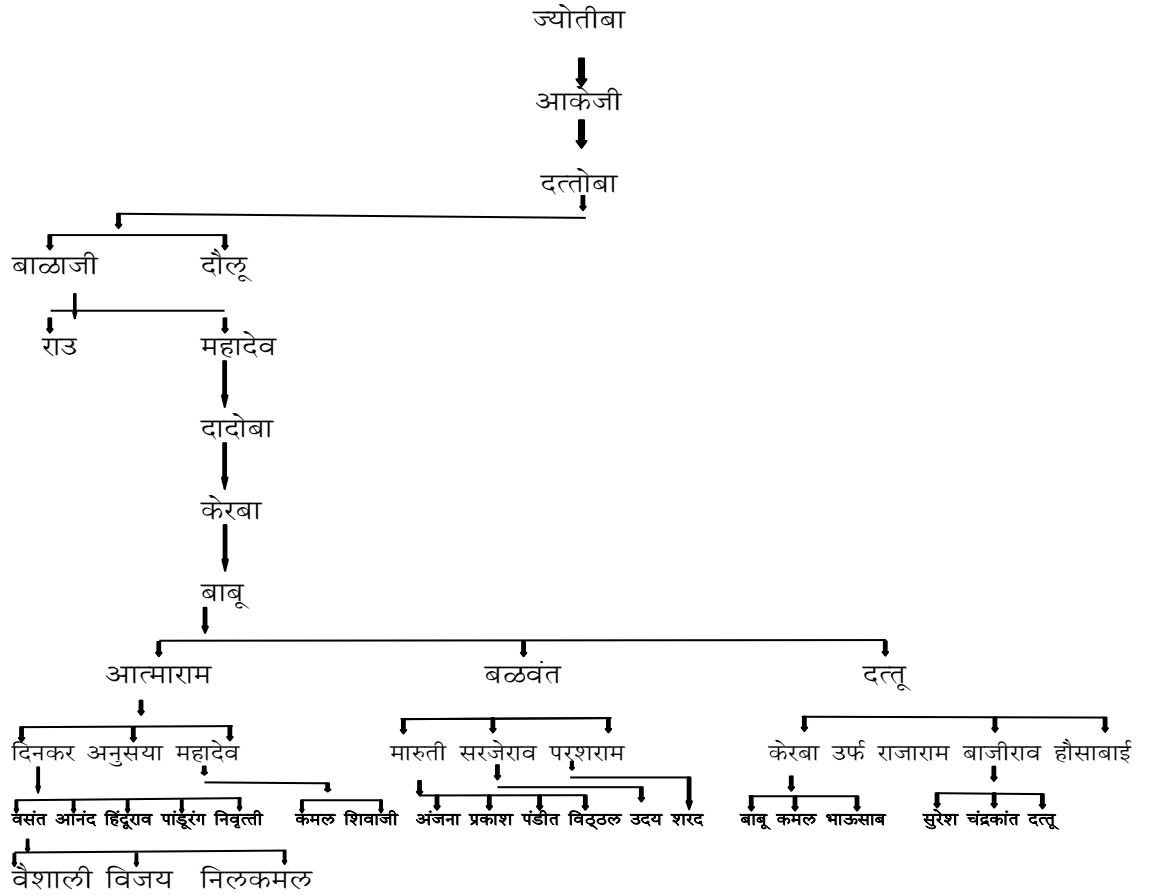
13. The other documents showing the caste as 'Maratha' in the school

leaving certificate of Vasant Dinkar Desai, who is the father of Petitioner and of the Petitioner shows that the said entry was subsequent to the birth entry of Anusaya. The Petitioner gave detailed response to the show cause notice issued by the Scrutiny Committee. The Petitioner had also submitted the affidavit of Pandurang Dinkar Desai, which is at Page No.157 to 159 of the record, showing the following genealogy :



14. There is the affidavit by one Siddhappa alias Siddhu Annappa Helvi stating that, his hereditary work was to maintain the genealogies of the families by visiting the villages. It states that they had the information/genealogy in respect of the Desai family residing at Kasba Beed, Taluka Karveer, District Kolhapur. To the affidavit, the

following genealogy is submitted under the signature of the said Affiant:



15. The above two genealogies are not challenged. They support the Petitioner's case. The above discussion shows that, it is established that the oldest entry is that of Anusaya, wherein the caste is mentioned as 'Kunbi'. It is nowhere disputed either by the Respondent No. 5 - Scrutiny Committee or the Respondent No. 6 – Complainant that, Anusaya was not related to the Petitioner from his father's side. The Committee observed that, there was only one (1) entry showing the caste as 'Kunbi' and there were nine (9) documents, wherein the caste was mentioned

as 'Maratha'/'Marathi'/'Marathe' and the oldest entry was showing the caste as 'Maratha'/'Marathi'. We have dealt with the said entries of 1919, 1922 and 1924. The oldest relevant and acceptable caste entry is that of Anusaya and it will have more probative value. The Respondent No.5 – Scrutiny Committee failed to properly evaluate the documents on record. Thus, the order impugned is liable to be quashed and set aside and the petition deserves to be allowed. Hence, the following order.

ORDER

- I) The Interim Application (IA) for amendment in respect of consequential order of disqualification is granted. Amendment to be carried out forthwith. Re-verification is dispensed with. The Interim Application stands disposed of.
- ii) The Writ Petition is allowed.
- ii) The impugned order dated 25th June 2026 passed by the Respondent No.5 – Scrutiny Committee invalidating the caste claim of the Petitioner is quashed and set aside.
- iii) The Respondent No.5 – Scrutiny Committee shall issue the caste validity certificate to the Petitioner as belonging to 'Kunbi' – OBC within a period of two (2) weeks from today.
- iv) The order dated 3rd August 2026 passed by the Respondent No.4-Commissioner disqualifying the Petitioner from

membership of the Kolhapur Municipal Corporation is quashed and set aside.

- v) The record and proceedings be handed over to the learned AGP.
- vi) The Writ Petition stands disposed of.

[Neeraj P. Dhote, J.]

[Sharmila U. Deshmukh, J.]

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signed by
RAJU
DATTATRAYA
GAIKWAD
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