

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

WRIT PETITION NO. 2026 OF 2013

Venkat s/o Bhagwantrao Bedre
age 53 years, occ. Legal Practitioner & Agril.
r/o Mitra Nagar, Latur.
Tq. & Dist. Latur

.. PETITIONER

VERSUS

1. The State of Maharashtra
Through Secretary
Social Welfare Department
Mantralaya, Mumbai.
2. The Member Secretary,
Divisional Caste Scrutiny Committee
For SC., V.J., N.T., O.B.C. & S. B.C.
Committee No. 2, Latur Division,
Latur.
3. Shivprasad s/o Vishnupant Shrungare
age 37 years, occ. business,
r/o Vikram Nagar, Latur
Tq. & Dist. Latur.
4. Jitendra s/o Ganpatrao Kamble
age 33 years, occ. Legal Practitioner
r/o MIDC Corner, Opposite Sanskar
Vardhani School, Barshi Road,
Latur, TQ. & Dist. Latur.
5. The Commissioner,
Latur Municipal Corporation,
Latur.

.. RESPONDENTS

Mr. V. D. Hon & Mr. H. V. Patil, advocates for petitioner.
Mr. S. K. Kadam, AGP for the State.
Mr. A. P. Bhandari, advocate for respondent no. 3.
Mr. S. B. Gastagar, advocate for respondent no. 4.
Mr. S. S. Manale, advocate for respondent no. 5.

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**CORAM : R.M. BORDE &
SUNIL P. DESHMUKH, JJ.**

**RESERVED ON : 20th DECEMBER, 2013
PRONOUNCED ON : 24th DECEMBER, 2013.**

ORAL JUDGMENT : (PER R. M. BORDE, J.)

1. Heard.
2. Rule. Rule made returnable forthwith. With the consent of the parties, petition is taken up for final disposal at admission stage.
3. Petitioner is praying for issuance of writ of certiorari or other appropriate writ directing quashment of the judgment and order dated 04.02.2013 passed by respondent no. 2 – Committee invalidating the caste certificate issued in favour of the petitioner. Petitioner claims that he belongs to Khatik caste recognised as Scheduled Caste in the Presidential list at Sr. No. 31. According to petitioner his fore-fathers belong to Khatik caste and there is sufficient evidence to substantiate his contention. Petitioner initially tendered an application in the year 1977 for issuance of

caste certificate of his belonging to Khatik caste and the competent authority had issued a certificate in his favour. Petitioner applied for grant of scholarship prescribed for students belonging to Scheduled Caste Category while pursuing studies at Deogiri College and, he was being paid scholarship during his educational career. According to petitioner, the certificate issued in his favour in the year 1977 is not traceable. As such, he again tendered application for issuance of caste certificate in the year 2003 and the same was issued to him by the competent authority.

4. Petitioner contends that since caste certificates were not easily issued to the persons belonging to the Khatik community in Marathwada region, in mental state of frustration, he applied for issuance of certificate of him belonging to Kalal caste which is included in Other Backward Class Category in the year 2001. According to petitioner, his family was locally known as Kalal. Although petitioner tendered an application for issuance of certificate of Kalal caste, his application was rejected by the Sub-Divisional Officer, Latur, on 10.01.2002. It is recorded in the order passed by the Sub-Divisional Officer that there is ambiguity as to whether petitioner really belongs to Kalal caste since according to petitioner, on earlier occasion he was issued a certificate of him belonging to Khatik caste. It is also recorded by the Sub-Divisional Officer in his order that son

of petitioner by name Suhas has been issued a certificate of him belonging to Khatik caste on 16.09.2000 and it would be open for the petitioner to get the same validated by tendering application to the Scrutiny Committee. After rejection of the claim for issuance of caste certificate of his belonging to Kalal caste, petitioner again tendered application in the year 2003 for issuance of certificate of him belonging to Khatik caste which was issued in his favour. Petitioner was desirous of contesting elections and as such he tendered proposal for verification of caste certificate with respondent no. 2 – Committee in the year 2010. Elections to the Municipal Corporation, Latur, were declared in the month of April 2012. Petitioner filled in his nomination paper for contesting elections from ward No. 13A which was reserved for Scheduled Caste category. At the relevant time, caste certificate issued in favour of petitioner of his belonging to Khatik caste was validated by the District Level committee by order dated 27.03.2012. Respondent nos. 3 and 4 who are the political rivals of petitioner, approached this Court by presenting writ petitions bearing no. 3178/2012 and 3988/2012 questioning the legality and correctness of the validation certificate issued by the District Committee. Writ petitions presented by respondent nos. 3 and 4 came to be allowed and caste certificate issued in favour of petitioner was directed to be referred to the Scrutiny Committee i.e. respondent no. 2 herein for verification. According to petitioner,

respondent nos. 3 and 4 created lot of impediments before the Committee and attempted to pressurise the members of respondent no. 2 – Committee by making false allegations against them. Writ petition bearing no. 9049/2012 was presented by respondent no. 4 seeking transfer of caste verification claim of petitioner to any other committee in the State of Maharashtra, preferably Committee at Nasik or Pune. There were serious allegations made by respondent no. 4 against members of respondent no. 2 – Committee doubting their integrity. There were also criminal complaints lodged against the Chairman and another member of the Scrutiny Committee and offences were registered under sections 420, 468, 469, 471 of the Indian Penal Code. Members of the Committee were required to approach Sessions Court and thereafter this Court for their release on anticipatory bail. It is the contention of petitioner that respondent nos. 3 and 4 attempted to pressurise members of the Committee with a view to secure invalidation of the caste certificate issued in his favour. During the proceeding before the Committee, as contemplated by rules, report of Vigilance Officer was called and after receiving the report, petitioner and respondents were called upon to tender their evidence. Petitioner contends that he produced voluminous record before the Committee to substantiate his claim. Respondent nos. 3 and 4 also produced evidence to rebut the contentions raised by petitioner. The Scrutiny Committee, however, in view

of order passed on 04.02.2013 which was pronounced on 11.02.2013, declared invalidation of the caste certificate issued in favour of petitioner.

5. The Scrutiny Committee framed six issues for consideration and recorded adverse findings on all the issues but one. The issues framed by Scrutiny Committee and findings thereon are as recorded below :

The first issue framed is 'Whether petitioner proves his claim of belonging to Scheduled Caste category on the basis of documentary evidence ?' and has been answered in negative. The second issue is 'Whether petitioner proves his claim on the basis of social status and customs and whether he establishes his affinity to the caste ?' This issue has also been answered in the negative. The third issue is 'Whether caste validation claim deserves to be held valid on the basis of validation certificates issued in favour of Sachin Baban Bedre and Sandip Baban Bedre ?', has been answered in negative. The fourth issue is 'Whether evidence in the form of revenue record namely Khasra Pahani Patrak of the year 1954-1955, copy of Pahani Patra, Census register of the year 1951 and the old sale-deed is sufficient to establish the claim of petitioner of him belonging to Scheduled Caste category ?', has also been answered in the negative. Fifth issue is 'Whether on the basis of

available documentary evidence, report of Vigilance Officer and the personal hearing given to the petitioner, his claim can be held valid ?’ This issue has also been recorded in the negative. The last issue framed by the Committee is “Whether claim of validation raised by petitioner can be invalidated on the basis of documentary evidence placed on record by the opponents which issue has been answered in the affirmative.

Scrutiny Committee has refused to rely upon the old documentary evidence in the form of entry in General Register recorded in Urdu language of 1338 Fasli concerning 2nd cousin uncle of petitioner by name Baburao Apparao Bedre wherein his caste has been recorded as Kasab. While placing on record before the Committee translation of the General Register, the caste Kasab recorded in Urdu language is translated as Khatik by the translator. Scrutiny Committee has also refused to place reliance on the old documentary evidence in the form of entry in the Census register recorded in the year 1952 in respect of father and other relations of petitioner, observing that the entry in respect of caste recorded in register appears to be written in different ink. Scrutiny Committee has also refused to rely upon the school record pertaining to petitioner’s great grand father by name Dhondur Eknath wherein his caste is recorded as Kasab. Scrutiny Committee has not considered evidence in the form of validation

certificate issued in favour of Sachin Baban Bendre and Sandip Baban Bendre who are claimed to be blood relations of petitioner. Scrutiny Committee has recorded finding that petitioner has failed to prove his relationship with the validity holders.

6. The Committee has recorded that there is ample contradictory documentary evidence establishing that near blood relations of petitioner belong to Kalal caste and entries to that effect have been recorded in their school record and other records. Scrutiny Committee also found that there are contrary entries in the old revenue record in respect of caste of ancestors of petitioner wherein at some places their caste is recorded as Maratha and at some places as Koli. Even entries recorded in the school record of the sons and daughters of the petitioner are as Khatik Kalal or Kalal Khatik. Entries in the school record pertaining to brothers of petitioner are recorded as Kalal or Hindu Kalal.

7. Scrutiny Committee recorded that Kalal is not a sub-caste or synonym to Khatik, as such, contention raised by petitioner that in Marathwada region Kalal are also known as Khatik, is not acceptable. Scrutiny Committee also took note of the fact that petitioner himself on earlier occasion tendered an application and tried to secure certificate of

his belonging to Kalal caste. It does therefore appear that petitioner himself is not sure as to whether he is Kalal or Khatik. It is to be noted that Kalal is a distinguished caste which is included in Other Backward Category and as such, the claim of petitioner that Kalal and Khatik are synonyms is not accepted by the Committee. The Committee also did not accept the contention of petitioner that Kasab are also known as Khatik in the region and Kasab caste is synonym to Khatik.

8. Scrutiny Committee further found that petitioner has failed to prove the traditions and customs of Khatik caste and he has failed to pass the affinity test. Scrutiny Committee as such proceeded to reject the claim raised by petitioner of his belonging to Khatik caste.

9. Learned counsel for petitioner contends that the Scrutiny Committee has overlooked the voluminous evidence produced by the petitioner and recorded finding contrary to the documentary record. It is the contention of petitioner that apart from the evidence which is of recent origin, ample evidence in the form of old record is available to substantiate the claim of petitioner. Petitioner places reliance on evidence in the form of school record pertaining to his cousin uncle by name Baburao Aparao Bedre wherein entry in respect of his caste is recorded as Hindu 'Khatik'. On

perusal of the relevant extract of the general admission register of the school (which is in Urdu language) it transpires that entry recorded in the column of religion at sr. no. 5 is 'Kasab'. Translated copy placed on record by the petitioner records the entry in respect of religion in column no. 5 as 'Hindu Khatik'. Contention of petitioner that Kasab and Khatik are one and the same does not deserve consideration. Original record of 1349 Fasli in respect of school admission of cousin uncle of petitioner records entry in respect of his caste as Kasab and this aspect cannot be overlooked. It cannot be disputed that Kasab is a caste recorded as Other Backward Category in the list of OBCs in the State of Maharashtra whereas Khatik is a caste included in Scheduled Caste category. Thus contention of petitioner that Kasab and Khatik are synonyms does not deserve acceptance.

10. Placing reliance on the entries in Census Register for the year 1951 prepared for the village Chincholi (R), it is vehemently contended that the caste of father, mother and uncle of petitioner is recorded in the register as Khatik. It is contended that since there is entry in the old record in respect of caste of father and other relations of petitioner as Khatik, it was not open for the Scrutiny Committee to arrive at any different conclusion.

11. Scrutiny Committee has refused to rely upon evidence in the form of

entries in the Census Register for the reason that according to Committee there appears to be change in the ink in recording the entries under the column "Special Class" whereunder the entries in respect of caste of the relations of petitioner are recorded. In order to verify correctness of the observation made by the Committee, we called upon respondents to produce original Census record for perusal. Census record of village Chincholi (R) and other villages in Omerga taluka was produced before us. We did find that there is change in the ink while recording entries in the column classified as "Special Class", however, recording of entries with a different ink below the said column is uniform feature in respect of all the entries under said column recorded in the register maintained for Chincholi (R) as well as other villages in Taluka. We have observed that entries are recorded in Census register under the specified column "Special Class" in different ink throughout the register. This feature is not peculiar to entries recorded for village Chincholi (R) but the entries are also recorded in registers maintained for other villages in similar way. It is vehemently contended by petitioner that the old evidence in the form of Census record alone is sufficient to prove the claim of petitioner. Although the submission appears to be quite impressive, we do not propose to record our findings relying solely on the entries which find place in 1951 Census register for the reason that there is voluminous evidence in the shape of the entries in the

school record and other record of blood relations of petitioner to the contrary, in addition to the past conduct of the petitioner of claiming certificate of 'Kalal' caste. So far as entries in Census register are concerned, it would be appropriate to consider the provisions of the Census Act, 1948, more specifically section 15, which reads thus :

15. No person shall have right to inspect any book, record made by a census-officer in the discharge of such, or any schedule delivered under section notwithstanding anything to the contrary in the India Act, 1872, no entry in any such book, register, schedule shall be admissible as evidence in any civil whatsoever or in any criminal proceeding other than prosecution under this Act or any other law for omission which constitutes an offence under this Act.

In view of provisions of Section 15 of the Act, the entries in the Census register cannot be taken into consideration.

12. Our attention is invited to Rule 16 of Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Rules, 2012. Rule 16 of said Rules provide for information to be supplied by the applicant and Clause D

thereof permits the applicant to place reliance on extract of Nationality Register. It would be doubtful as to whether the entries in Census Register can be equated with the Nationality Register. Even otherwise, as has been recorded above, there is abundant evidence which is sufficient to dislodge the claim of petitioner of his belonging to Khatik caste. It has been pointed out that while conducting census in the year 1951, it was not expected of the census authorities to record entries in the register in respect of caste of an individual. There are instructions provided for maintaining Census register. Instruction No. 8 directs that while recording entries in column no. 8 concerning religion such as Muslim, Christian (except Anglo Indian), Jain, Sikh, Parsi, Buddha, Jue and castes mentioned below instruction no. 8, figure '1' shall be recorded. Considering instruction no. 8, it was not expected of the authorities to enter information in respect of caste of an individual. On scrutiny of the entries in the register, it is observed that in column no. 7 in respect of religion, figure '1' is recorded whereas in column no. 8 titled as "Special Class", entry in respect of caste appears to have been recorded in different ink. Considering the instructions issued by the Census authorities for recording of entries in the register, it would be clear that it was not expected of the Census authorities to record entry in respect of caste of an individual in the column "Special Class". Even otherwise, on principle of preponderance of probabilities and considering the voluminous

documentary evidence to the contrary, do not persuade us to record finding in favour of petitioner relying upon record in the form of entries in Census register.

13. Petitioner has also placed heavy reliance on the evidence in the form of caste validation certificates issued by the Scrutiny Committee at Pune in favour of Sachin Baban Bendre, Pritam Ganpatrao Bendre and Sandip Baban Bendre. According to petitioner, validity holders are his second cousin nephews. It is contended that since blood relations have been issued validity certificates, claim of petitioner deserves to be accepted. We have examined validation certificates issued in favour of said validity holders. It is to be noted that surname of all the three validity holders is recorded as "Bendre" and not "Bedre" as claimed by petitioner. In order to establish relationship with validity holders, petitioner has placed before the Committee an affidavit recording genealogy of the family. It has been pointed out by respondents that petitioner has presented different genealogies at different stages in the proceedings. While tendering application for issuance of certificate of his belonging to Kalal caste, petitioner tendered affidavit wherein he has recorded genealogical tree. Copy of the affidavit presented to the office of Tahsildar on 02.11.2001 is at page 854 of the compilation. Second genealogical tree which is a

document verified by Notary produced by the petitioner alongwith affidavit verified before Notary Public before the Committee finds place in the compilation at page no. 894 which bears date as 20.10.2010, differs in material particulars from the genealogical tree presented by petitioner alongwith affidavit on 25.07.2012. On earlier occasion, petitioner did not make mention of the branch of Gopal Bedre and Rama Bedre who are claimed to be the ancestors of petitioner. Genealogical tree prepared on 20.10.2010 also differs in material particulars from the genealogical tree prepared on 25.07.2010. Apart from this, as recorded above, surnames mentioned by the validity holders who are from Solapur district are "Bendre" however, surname of petitioner is Bedre. Contention of petitioner that the branch which is settled in Solapur district put their surnames "Bendre" whereas branch settled in Marathwada particularly at Osmanabad and Latur region record their surname "Bedre", does not get any convincing support from the evidence. We specifically called upon the petitioner to produce evidence in the form of genealogical tree produced by the validity holders namely Sachin Bendre, Sandip Bendre and Pritam Bendre in the proceeding filed before the Scrutiny Committee at Pune. However, petitioner did not produce the genealogical tree placed on record by the aforesaid validity holders before the Scrutiny Committee at Pune nor did petitioner make any application for calling record of validation

proceedings of aforesaid validity holders either during pendency of proceedings for validation of his certificate before Scrutiny Committee or this Court. For the reasons recorded above, we are of the view that the Scrutiny Committee was justified in discarding the evidence produced by petitioner in the form of validation certificates issued in favour of said validity holders. We are of the opinion that petitioner has not convincingly proved his relationship with the validity holders.

14. It is recorded by the Scrutiny Committee that petitioner has not proved his affinity with the specified Scheduled Caste i.e. Khatik. Petitioner also could not state customs and characteristics peculiar to the Scheduled Caste, to the satisfaction of the Committee.

15. Apart from above, there is old documentary record produced by the complainant to dislodge the claim of petitioner. On going through the report of the Vigilance Cell, it is observed that there are at least 19 to 20 blood relations of petitioner whose caste is recorded in the school register and other record as Kalal. The caste of the close relations of petitioner i.e. his real brother and cousin brother is recorded as Kalal in the school record and other records. Petitioner himself has stated in the affidavit presented to the Tahsildar on 01.11.2001 that the caste of his real brother by name

Ramchandra @ Nana Bhagwantrao Bedre has been recorded as Kalal in the school register. It is also recorded in the affidavit that his real brother Ramchandra, while enrolling his name with the Employment Exchange in the year 1999, made declaration that he belongs to Other Backward Category. His cousin brother by name Subhash Devidasrao Bedre has also recorded his caste in the school record as Kalal.

16. Aforesaid apart, during Vigilance Cell enquiry, the Vigilance Officer found that atleast 19 close relations of petitioner have recorded their caste in the school record as Kalal. Details thereof are recorded as below :

Sr. No.	Name	Relation with petitioner	Name of school	Entry number and caste shown in the said entry
1.	Ku. Mangal Madhavrao Bedre	Daughter of Madhavrao whose name is appearing in genealogy	Zilla Parishad Prathmik Vidyamandir, Chincholi (R), Tal. Omerga, Dist. Osmanabad	Entry no. 4, Caste Hindu, Kalal.
2.	Ku. Pushpavati Madhavrao Bedre	-as above-	-as above-	Entry no. 69, Caste Hindu, Kalal
3.	Bedre Chandar Manikrao	Name shown in genealogy	-as above-	Entry no. 90, Caste Hindu, Kalal

4.	Arun Baliram Bedre	-as above-	-as above-	Entry no. 101, Caste Hindu, Kalal
5.	Ku. Bedre Shobhabai Madhavrao	Daughter of Madhavrao whose name is shown in genealogy	-as above-	Entry no. 107, caste Hindu, Kalal
6.	Ku. Bedre Bhartabai Baliram	Daughter of Baliram, whose name is shown in genealogy	-as above-	Entry no. 129, Caste Hindu, Kalal
7.	Bedre Subhash Madhavrao	Son of Madhavrao, whose name is shown in Genealogy	-as above-	Entry no. 194, Caste Hindu, Kalal
8.	Ku. Bedre Reshabai Baliram	Daughter of Baliram, whose name is shown in genealogy	-as above-	Entry no. 212, Caste Hindu, Kalal
9.	Ku. Bedre Bharat Baliram	Son of Baliram, whose name is shown in genealogy	-as above-	Entry no. 250, Caste Hindu, Kalal
10.	Bedre Vijaykumar chandrakant	Name shown in genealogy	-as above-	Entry no. 540, Caste Hindu, Kalal
11.	Bedre Anilkumar Chandrakant	Son of Chandar, whose name is shown in genealogy	-as above-	Entry no. 540, Caste Hindu, Kalal

12.	Ashok Ambadas Bedre	Name shown in genealogy	- as above -	Entry no. 1178, Caste Hindu, Kalal
13.	Babruwahan Ambadas Bedre	-as above-	-as above-	Entry no. 952, Caste Hindu, Kalal
14	Ku. Bedre Chhaya Sidram	Daughter of Sidram, whose name is shown in genealogy	Zilha Parishad Kanya Prashala Sastur, Tq. Omerga, Dist. Osmanabad	Caste Hindu, Kalal
15.	Ku. Bedre Suman Santaram	Daughter of Santram, whose name is shown in genealogy	Zilha Parishad Prashala Sastur, Tq. Omerga, Dist. Osmanabad	Entry No. 724, Caste Hindu, Kalal
16.	Ku. Bedre Mahananda Santaram	Daughter of Santram, whose name is shown in genealogy	-as above-	Entry no. 862, Caste Hindu, Kalal
17	Ku. Bedre Anita Dagdu	Daughter of Dagdu, whose name is shown in genealogy	Zilha Parishad Prathmik Vidya Mandir, Rajegaon, Tq. Omerga, Dist. Osmanabad.	Entry No. 555, Caste Hindu, Kalal
18.	Ku. Bedre Sunita Dagdu	Daughter of Dagdu, whose name is shown in genealogy	-as above-	Entry no. 556, Caste Hindu, Kalal

19.	Ku. Bedre Prashan Dagdu	Son of Dagdu whose name is shown in genealogy	-as above-	Entry no. 662, Caste Hindu, Kalal.
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17. The above noted documentary evidence in the form of school record of blood relations of petitioner, aside, one important aspect cannot be forgotten that petitioner himself has tendered an application in the prescribed proforma on 01.11.2001 for issuance of caste certificate of him belonging to 'Kalal' caste. Alongwith the application tendered to the Tahsildar, petitioner has presented an affidavit sworn by him. In the affidavit presented to Tahsildar, petitioner has stated on oath that he belongs to 'Kalal' caste and with a view to substantiate his contention, he produced on record before the Tahsildar, photostat copy of school entries of his real brother Ramchandra @ Nana Bhagwantrao Bedre. Petitioner also presented genealogy showing his family tree on 02.11.2001. It needs to be recorded here that family tree recorded in application tendered to Tahsildar on 02.11.2001 materially differs from the family tree produced by petitioner before the Scrutiny Committee in the years 2010 and 2012. The genealogical details placed on record of the Scrutiny Committee by petitioner in the years 2010 and 2012 also differ in material particulars with each other. It needs to be adverted to that petitioner is an advocate, and as

such, is aware of the consequences of making different and contradictory statements on oath before the authorities. Petitioner made statements on oath before different authorities i.e. Tahsildar on one occasion and before the Scrutiny Committee at subsequent stage, which are contrary in nature. The Sub-Divisional Officer by order dated 10.01.2002 has turned down the request of petitioner for issuance of caste certificate. The Sub-Divisional Officer made reference in the order to the affidavit presented by petitioner before him as well as documentary evidence in the form of school record of his brother and niece to substantiate his contention of him belonging to 'Kalal' caste. It needs to be reiterated that petitioner is an advocate and he must be presumed to be aware of the sanctity of making statements on oath and consequences of making contradictory statements before different authorities at different points of time. Apart from the fact that petitioner himself tendered application claiming certificate of belonging to 'Kalal' caste, entries recorded in the school record of sons and daughters of petitioner are also not consistent with his claim. It has not been disputed before us that school entries pertaining to sons and daughters of petitioner are recorded as 'Kalal Khatik' or 'Khatik Kalal'. Petitioner appears to be taking chances and wants to claim benefits of whichever backward class that can be made available. At one point of time, petitioner claims benefits of 'Kalal' caste whereas at another point of time after few years, probably

with a view to facilitate him to contest elections, he claims benefits of his belonging to 'Khatik' caste which is included in Scheduled Caste category. Record reveals that in spite of having knowledge that petitioner does not belong to 'Khatik' caste and that there are entries recorded in the school record and other record in respect of caste of his blood relations of their belonging to 'Kalal' caste, petitioner is persistent in lodging and pursuing claim of his belonging to Khatik caste, with a view to claim benefits of Scheduled Caste Category.

18. Complainant has placed before the Committee old revenue record in respect of family members of petitioner wherein entry in respect of their caste has been recorded as Kalal. The Scrutiny Committee has made mention of the said record in the order as an additional circumstance for dis-believing the claim of petitioner. In the Pahani Patrak of the year 1954-1955 in respect of Mukinda Subhana who is stated to be grand father of petitioner, there is entry as Kalal against his name. In the Pahani Patrak of the year 1951 in respect of survey no. 12 pertaining to Kondiba Mukinda Kalal, there is entry as Kalal which signifies his caste. Similarly in the sale-deed executed on 15.02.1957 by one Nivrutti and Bhagwantrao, who were stated to be real uncle and father of petitioner, their caste is recorded as Maratha.

19. Contention raised by petitioner that caste Kasab is synonym to Khatik or that Kalals in Marathwada region are Khatik, does not deserve acceptance in view of the judgments of the Apex Court in the matter of State of Maharashtra Vs. Milind and others reported in AIR 2001 SC 393 as well as in the matter of Bharti Balkrishna Dhongade Vs. State of Maharashtra and others reported in 2012(1) Bom.C.R. 811.

20. For the reasons recorded above, we are of the considered opinion that the view taken by the Scrutiny Committee is possible view and does not call for interference at the hands of this Court. Since the view taken by the Scrutiny Committee is possible view and does not appear to be perverse, in exercise of writ jurisdiction under Article 226 and 227 of the Constitution of India, we do not deem it appropriate to cause interference in the matter. Writ petition is devoid of substance hence stands dismissed. Rule discharged. In the facts and circumstances of the case, there shall be no order as to costs.

21. Pending civil application, if any, does not survive and stands disposed of.

22. Learned counsel for petitioner prays for continuation of interim relief

granted by this Court during pendency of the petition. Learned counsel appearing for respondent nos. 3 and 4 have vehemently opposed the prayer made by petitioner contending that in view of judgment of the Full Bench in the matter of Ramesh Suresh Kamble Vs. State of Maharashtra and others reported in 2006(6) Bom.C.R. 820, protection need not be granted to the petitioner since caste certificate issued in his favour has been invalidated. In the facts and circumstances of the case, we deem it appropriate to direct respondent nos. 1 and 5 not to declare vacancy in the office of Councilor of Municipal Corporation, Latur, occupied by the petitioner, for a period of eight weeks from today.

(SUNIL P. DESHMUKH)
JUDGE

(R. M. BORDE)
JUDGE

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