

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2332 OF 2018

Darshan Chandravilas Bhamare	...	Petitioner
versus		
State of Maharashtra and Ors.	...	Respondents

Mr.R.K.Mendadkar a/w Mr.T.V.Jadhav for
the Petitioner.

Mr.B.V.Samant-AGP for State.

Mr.Sandeep Waghmare a/w Rahul
Motkari for Respondent No.4.

Mr.Arun B.Padekar- Assistant Law Officer,
Nashik present.

CORAM :- S. C. DHARMADHIKARI &
R.I.CHAGLA, JJ.

DATE :- JANUARY 31, 2020

P.C. :-

1. This petition under Article 226 of the Constitution of India challenges the order passed by the Scrutiny Committee invalidating the claim of the petitioner.

2. The petitioner before us is Darshan Chandravilas Bhamare. He is a resident of Nasik. His claim was placed before the second respondent-Committee in following facts and circumstances.

3. The petitioner was admitted against a reserved seat (reserved seat for Scheduled Tribe) in the first year of Engineering Degree Course in the academic year 2016-2017 in the fourth respondent-College. The seat was allotted by the third respondent. The petitioner says that a caste certificate was granted to his father on 30th June, 1987. A copy of this certificate is annexed and marked as Exhibit 'H' to the petition. That certifies the said certificate holder to be a Thakur, Scheduled Tribe.

4. The petitioner also relies upon a copy of the caste certificate dated 7th March, 1978 issued to grandfather of the petitioner. This grandfather from the paternal side is Adhar Ganpat Bhamare. The petitioner says that having been satisfied with these two certificates, the petitioner, who was born on 27th March, 1998, admitted himself to a Primary School at Nandurbar on 28th June, 2004. He left the school after passing the fourth standard examination in the month of June, 2007. In the school admission record and in the school leaving certificate, the petitioner was stated to be belonging to Hindu Thakur, Scheduled Tribe.

5. On the strength of all these documents, the petitioner applied for a caste certificate, which was issued to him on 2nd March, 2015 and copy of which is at Exhibit 'P' to the petition.

6. Now, on the strength of this, the petitioner claimed the seat reserved for scheduled tribe. The petitioner says that he has been a victim of the circumstance, inasmuch as, the certificate of validity was not issued to him and his caste certificate has been invalidated. The first occasion on which this invalidation was done is by an order dated 18th September, 2015. Aggrieved and dissatisfied with that order, the petitioner filed Writ Petition No.3604 of 2016. That writ petition was placed before a Division Bench of this Court, which was pleased to quash and set aside that order and directed the second respondent to carry out fresh scrutiny and verification of the tribe claim of the petitioner. Time was granted to do so, but the Committee failed to adhere to the same. The petitioner filed Contempt Petition No.127 of 2017 as the Committee failed to adhere to the time schedule. After that Contempt Petition was placed, the Committee moved and issued the two show cause notices to the petitioner forwarding him a copy of the Vigilance Cell Report. The Vigilance Cell Report is dated 9th January, 2018 and the two show cause notices are dated 12th and 15th January, 2018. The petitioner says that after he appeared and made the submissions, the impugned order has been passed. The impugned order is dated 1st February, 2018.

7. When this petition was placed before a Division Bench of this Court, the Division Bench on 23rd March, 2018 passed the following order :-

“ Having heard learned counsel for the petitioner, we direct the learned AGP to file reply before the returnable date. Stand over to 20.4.2018.

2. Till then, no coercive action shall be taken against the petitioner in pursuance of the order impugned in this petition.”

8. That order has continued till date. During the course of the arguments, reliance is placed by Mr.Mendadkar on the fact that the petitioner completed the engineering course, but the fourth respondent is not issuing the mark-sheet, passing certificate and the degree certificate on account of invalidation of the claim. That is how, in the initial round, on 22nd November, 2019, we passed the following order.

“1. Since Shri. Mendadkar complains that despite the order dated 23.3.2018 passed by this Court, the fourth respondent- College is bent upon cancelling the admission of the petitioner and refusing to issue the marksheet and degree certificate, we direct a notice be issued to the fourth respondent - College, returnable on 10.1.2020.

2. The notice be served through the bailiff attached to the Nasik District Court.

3. The Registrar of the Nasik District Court shall personally ensure that the notice is served by the bailiff and the report of service is forwarded before the next date. In addition, Mr.Mendadkar shall supply email address of the fourth respondent and the Registry shall serve a notice to the fourth respondent by email.

4. The fourth respondent - College should realize that the Court has passed an order on 23.3.2018 in this petition. That order reads as under:-

" Having heard learned counsel for the petitioner, we direct the learned AGP to file reply before the returnable date. Stand over to 20.4.2018.

2. Till then, no coercive action shall be taken against the petitioner in pursuance of the order impugned in this petition."

5. This order is continued from 23.3.2018 and would continue to bind all the respondents until it is vacated by this Court. Therefore, there is no question of reading into the order anything which the order otherwise does not say. If we find that the fourth respondent is making such an attempt, the same can be construed as a contempt of this Court.

6. Stand over to 10th January, 2020.

9. That may bind the college, but on 10th January, 2020, we were informed that the college has not cancelled the admission, but it is bent upon cancelling it by relying upon the impugned order passed by the Scrutiny Committee. On that date, we passed the following order:-

1. When this petition was circulated, may be on an understanding and belief given to the petitioner that his admission in the Engineering degree course is in jeopardy, it has been clarified by the College that the admission is not cancelled and the College has no intent to cancel it until this Court decides this Writ Petition.

2. However, as far as the main petition is concerned, we direct Mr.Samant to produce the original record in relation to the claim of the petitioner from the Scheduled Tribe Scrutiny Committee, Nasik, particularly, to ascertain that this Committee issued a Certificate of Validity to the real uncle of the petitioner from the paternal side.

3. At the request of Mr.Samant, this matter is stood over to 24.1.2020 on the supplementary board. Let the original records be produced for our perusal.

4. Mr.Waghmare tenders an affidavit of Respondent No.4, which is taken on record.

10. Mr.Mendadkar, learned counsel appearing on behalf of the petitioner, would submit that the Scrutiny Committee is bent on invalidating the caste/tribe certificate of the petitioner. This is the second round and the Committee assigned the same reasons. Even in fresh round, the Committee is prejudiced and biased because it feels that every claim of Hindu Thakur, Scheduled Tribe by a person outside the district, where this tribe was predominantly found, is doubtful, suspicious and erroneous as well. This has coloured the mind of the Committee throughout and it maintains that the parties like the petitioner cannot be belonging to Hindu Thakur, Scheduled Tribe.

11. In this case as well, this prejudice is writ large because the Committee, while passing the impugned order, has framed four issues. The standard and fixed issues are whether the petitioner has established and proved that all the documents relied upon are of genuine nature, inasmuch as, the documents which were produced establish the candidate's claim as belonging to genuine Thakur, Scheduled Tribe. Next, whether the petitioner has cleared the affinity test and whether issuance of validity

certificate to close relatives from the paternal side preclude the Committee from adjudicating the claim of the student on merit and in accordance with law. Finally, whether the persons claiming to be Thakurs can really claim to be so when they are not residing in the areas where this Tribe was located and found.

12. We are in agreement with Mr.Mendadkar that the Committee could not have invalidated the Tribe Certificate issued to the petitioner on the ground of area restrictions for those are clearly removed after the Amendment Act of 1976. We are also not upholding the finding of the Committee based on area restrictions. We are also not endorsing the factual finding of the Committee on affinity test. However, there are material observations and remarks of the Committee with regard to the traits, characteristics, customs, rituals and practices of Thakur, Scheduled Tribe.

13. While affinity is not a litmus test, the Hon'ble Supreme Court of India itself has clarified that the traits and characteristics are relevant and knowledge about them is required while the claim is being scrutinized and verified. The law, namely, the Maharashtra Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of

Issuance and Verification of) Caste Certificate Act, 2001 (for short, “the Maharashtra Act No.23 of 2001”) places the burden squarely on the applicant, who claims to be belonging to the Scheduled Castes or Scheduled Tribes. He has to establish and prove that his claim is genuine. In that regard, the information provided by him with regard to the traits, characteristics, customs, rituals and practices of the community is relevant. If that information is found to be consistent with the traits, characteristics prevailing at the relevant time in the Tribe, then, surely the same is relevant and germane. However, even contrary remarks about lack of knowledge or lack of information cannot be discarded by us and to that extent, we are referring to the materials in the impugned order. We are not expressing any opinion on the finding of the Committee with regard to the affinity test being cleared or passed by the petitioner.

14. In order to ascertain the factual position, we had called for the original records and Mr.Samant-AGP appearing for respondent Nos.1 to 3 has produced the same.

15. The argument of Mr.Mendadkar is that the petitioner relied upon the certificates of validity. These certificates of validity issued to close relatives from the paternal side should have been considered and so considered, the claim is established and proved

by the petitioner. In that regard, Mr.Mendadkar relied upon the certificate of validity issued to one Sadanand Tanaji Bhamare on 8th December, 1998 by the very Scrutiny Committee. Following Sadanand, a certificate of validity was issued to Bhamare Hemant Aadhar, who claimed to be petitioner's uncle. Hemant is said to be the real brother of the petitioner's father-Chandravilas. He is issued the certificate of validity on 15th November, 2000.

16. Mr.Mendadkar would submit that the Committee failed to note that these two certificates of validity have been issued decades back and they could not have been discarded so casually. The reasons assigned for discarding them are neither germane nor relevant. The finding on fact in that regard is perverse. The error of law committed by the Committee is so apparent on the face of the record that the impugned order cannot be sustained.

17. Mr.Mendadkar alternatively contended that even if we omit these certificates of validity from consideration, there are two pre-constitutional documents, which have high probative value. In that regard, Mr.Mendadkar submits that the petitioner's great grandfather from paternal side is Ganpat Lala Thakur . He was born on 24th August, 1909. He was admitted in a Primary School at Umbarkhede, Taluka Chalisgaon, District Jalgaon. He was admitted on 2nd October, 1916 where his social status was stated

as Thakur. Annexed to the petition and marked as Exhibit 'D' is the copy of the School Leaving Certificate of Ganpat Lala Thakur.

18. Thereafter, the petitioner submits that his grandfather from paternal side is Aadhar Ganpat Bhamare. He was born on 14th August, 1942. In Village Form No.14 (Birth Record), his social status is recorded as Thakur. The petitioner's grandfather from paternal side-Aadhar Ganpat Bhamare was admitted in a Primary School at Chikhalohol, Taluka Malegaon, District Nashik on 1st March, 1950 and his Primary School Leaving Certificate contains the entry "Hindu Thakur". Thus, these two documents are pre-constitutional or atleast old and genuine and on the basis of these documents, the claim of the petitioner should have been accepted. There was no doubt or suspicion about these documents and, therefore, the petitioner deserves the certificate of validity.

19. In support of the contentions canvassed by Mr.Mendadkar, reliance is placed by him on the order passed by a Division Bench of this Court in *Writ Petition No.8618 of 2019 (Vaibhav Dharma Pawar and Ors. Vs. State of Maharashtra and Ors.)* decided on 9th August, 2019 and in *Writ Petition (St) No.15123 of 2019 (Rahul Rajendra Thakur Vs. State of Maharashtra and Ors.)* decided on 2nd December, 2019.

20. Mr.Mendadkar also relies upon the judgment of the Hon'ble Supreme Court rendered in the case of *Anand Vs. Committee for Scrutiny and Verification of Tribe Claims and Ors. [(2012) 1 Supreme Court Cases 113]*.

21. For properly appreciating the rival contentions, we would have to refer to the documents which were placed before the Scrutiny Committee. As we have noted from the impugned order itself that the Committee had before it as many as twenty documents.

22. The twenty documents contain the caste certificate issued to the petitioner, his school record, the birth certificate of the petitioner and his father and photocopy of the School Leaving Certificate of the petitioner issued by Sagarmal Modi Prathamik Shikshan Mandir, Nashik. The petitioner also relied upon the copy of the caste certificate issued in favour of his father. He also relied upon the fact that his father is in service of Bank of Maharashtra on the basis of this tribe certificate as also his uncle Hemant is serving in a public utility undertaking. The petitioner also relied upon the photocopy of the village record in relation to the grandfather-Aadhar Ganpat Bhamare. The petitioner also relies upon the School Leaving Certificate of Aadhar Ganpat Bhamare and the School Leaving Certificate of the great

grandfather-Ganpat Lala Thakur. Finally, the copies of the two certificates of validity issued in favour Sadanand and Hemant.

23. Now, the Committee says that based on these documents, the claim was lodged before it and it referred the materials for a home inquiry by the Vigilance Cell. The inquiry was conducted after paying visits to the concerned villages and locating the schools where the petitioner and his ancestors studied. The Vigilance Cell conducted this inquiry on 10th January, 2017 and 9th January, 2018. Thereafter, the report of the Cell was submitted and the petitioner was called upon to show cause as to why the same should not be accepted or discarded.

24. Now, the petitioner gave no information save and except stating before the Committee that the family comprises of the great grand-father from paternal side Ganpat Lala Thakur and grand-father from the paternal side Aadhar Ganpat Thakur. The grand-father from the paternal side is named as Aadhar Ganpat Bhamare and the two certificates of validity have been issued in favour of Sadanand Tanaji Bhamare and Hemant Aadhar Bhamare.

25. At pages 68 and 69 of the paper-book is the copy of the affidavit of Hemant Aadhar Bhamare. Hemant is in public

service. He is working with the Maharashtra State Electricity Distribution Company Ltd., Mumbai and resides at Kharghar, Navi Mumbai. He says that petitioner's father Chandravilas Bhamare is his real brother and the petitioner is the elder son of Chandravilas. The relationship is sought to be established by pointing out that Ganpat Lala Thakur was the common ancestor. Aadhar Ganpat Bhamare (Thakur) was the son of Ganpat Lala Thakur and Chandravilas, Hemant and Sujata are the sons and daughter respectively of Aadhar Ganpat Bhamare. Chandravilas has two sons, namely, Darshan and Rudra. Darshan is the petitioner before us. This affidavit is filed on 27th March, 2014. When this document was brought to the notice of both sides, Mr.Samant, learned AGP for respondent Nos.1 to 3 would submit that Sadanand had helped Hemant in obtaining the certificate of validity. However, the information provided by Sadanand to the Committee, while obtaining the certificate of validity, was misleading. There is no genealogy and family tree. The complete genealogy and family tree would have disclosed as to how the petitioner's claim of Ganpat Lala Thakur being the common ancestor is genuine. The information is given, but that information is not complete, inasmuch as, if the surname 'Thakur' is appearing as that of Ganpat, then, how Aadhar-son of Ganpat is styling himself as Aadhar Ganpat Bhamare (Thakur), according

to Mr.Samant, has never been explained. In fact, the argument is that Sadanand obtained the certificate of validity by not disclosing the truth. Sadanand is said to be the cousin uncle of the petitioner. His name is Sadanand Tanaji Bhamare. Now, whether Tanaji was related to Ganpat and how, whether he was also related to Aadhar Ganpat Bhamare has never been clarified. Relying upon the certificate of validity issued to Sadanand, Hemant obtained the certificate of validity and, therefore, Mr.Samant would submit that we must proceed to dismiss this petition by not accepting the alternate argument.

26. From a perusal of the impugned order so also the original record, we are of the opinion that there is much substance in the contentions of Mr.Samant.

27. The Committee has opined that it issued the certificate of validity on 8th December, 1998 to Sadanand. This was issued on the basis of certificate of validity issued to Bharat Kashinath Thakur. This validity certificate is relied upon by Hemant. In the case of Hemant, Sadanand filed an affidavit on 29th December, 1995. We have carefully perused a copy of that affidavit, which has been produced before us. Sadanand says that he resides at Umbarkhed, Taluka Chalisgaon, District Jalgaon. He says that he is a Sales Tax Officer and is in service from 1st July, 1997. His

original place of residence is Village Umberkhed. The family has an agricultural land and a residential house. The said Sadanand says that his father is not alive. However, his mother-Shantabai is alive. He says that he has four uncles, namely, Budha, Mahadu, Shankar and Bhimsen. None of them are alive. He says that his father had three sisters, but they are also not alive. Sadanand claims that he has three brothers, namely, Suresh, Satyawar and Arun. He has four sisters, namely, Lilabai, Chandrakala, Malti and Indubai. The said Sadanand says that he belongs to Thakur Scheduled Tribe. He says that his father and grandfather knew the language "Thakari". Sadanand has three sons, namely, Amar, Ajay and Ajit. He says that the women in the community cover their face with the saree and the men in the community wear a dhoti upto their knees and shirt. The said Sadanand attempts to give information with regard to the traits, characteristics of this community. Then his statement proceeds and gives the surnames of the relatives. They are Deore, Wankhede, Jadhav, Chavan, Jagtap, Pawar, Nikam and Ahire. The other information, he proceeds to give, is that his father has a real cousin sister, namely, Banubai Kashinath Thakur. She is alive. Her son Bharat is certified to be a scheduled tribe and there is an order passed by the State Government in his case on 18th June, 1996. Bharat is, therefore, his cousin from the paternal side. He says that Bharat

has given an affidavit, which is annexed by him with his statement.

28. Now, interestingly, the Committee's predecessor issued the validity certificate to Bharat Kashinath Thakur on 30th July, 1996. In the case of Hemant, the Committee relied upon the affidavit of Sadanand and the report of the Vigilance Cell. It contained the remark that Sadanand Tanaji Bhamare is cousin brother of Bharat. However, a copy of Bharat Kashinath Thakur's affidavit dated 18th March, 1998 is on record. A perusal of the same denotes that Ajit Sadanand Bhamare is referred therein as a son of the cousin maternal brother. Sadanand is disclosed as a cousin brother from the maternal side. Now, if Sadanand's surname is Bhamare, then, Bhamare and Thakur families are not related to each other from paternal side. Now, the mystery relating to this difference in surnames is resolved by this affidavit.

29. As far as Hemant is concerned, Hemant is stated to have exclusively referred to the certificate of validity issued to Sadanand. He purported to provide the information to the Committee, but it does not make any reference to the relations. It only says that Sadanand Tanaji Bhamare is Hemant's cousin uncle. The further information provided is that Aadhar Ganpat

Bhamare is the father of Hemant and the grandfather is Ganpat Lala Thakur..

30. The affidavit that Hemant gives during the course of scrutiny and verification of the petitioner's claim also purports to inform the Committee that this family comprises of Ganpat Lala Thakur as common ancestor and Aadhar Ganpat Bhamare is the grandfather of the petitioner and father of Hemant and Chandravilas. Pertinently, in this information provided on affidavit by Hemant, there is no reference to the relatives from the paternal side referred and mentioned by Sadanand in his statement. There is absolutely no reference in Sadanand's statement to Ganpat Lala Thakur and Aadhar Ganpat Bhamare. How all these persons are allegedly related to each other, whether from paternal side or otherwise, has never been explained to the Committee. We find that the Committee is justified in holding that it was misled by both-Sadanand and Hemant and that is why the certificates of validity issued to them have lost their probative value. The finding of fact in case of Sadanand is that Sadanand has given an affidavit stating that Hemant Bhamare is his cousin brother. This aspect is totally absent from the genealogy, which has been provided by the present petitioner. In the genealogy, Darshan's grandfather, great grandfather and great great

grandfather has no brother. This means, either there is no relationship between the present petitioner and Sadanand or the petitioner is suppressing true facts in the genealogy. This finding of fact is neither perverse nor vitiated by any error of law apparent on the face of the record. The Committee has to be fully satisfied about the genuineness of the claim and the *bona fides* of the applicant before it. The burden rests squarely on the applicant and that can be said to be discharged by him only when he produces genuine and truthful record. The Committee, if misled into granting the certificate of validity on the previous occasions and if they are relied upon subsequently by the persons or claimants claiming to be related to the certificate of validity holder, then, the Committee is fully empowered to conduct an inquiry. It is conducted in the instant case. It is, therefore, evident that when Hemant gives an affidavit in the present case, he makes no reference to Sadanand and Sadanand has also made no reference to the common ancestor Ganpat Lala Thakur in the genealogy provided by him. In such circumstances, the certificates of validity have lost their probative value. That is evident from the record.

31. If we uphold this finding of fact of the Committee, then, Mr.Mendadkar's alternate argument also must be rejected. The

alternate argument is that the petitioner's great grandfather is one Ganpat. Ganpat's name is entered as Ganpat Lala Thakur. He is stated to have been born on 24th August, 1909 and admitted to a primary school on 2nd October, 1916. As far as that is concerned, it is evident that Vigilance Cell made a home visit. It met the persons. The persons from the village, who have seen Ganpat, stated that the said Ganpat is the cousin brother of the mother of one Lilabai Eknath Gaikwad and, who, prior to her marriage, was known as Lilabai Kashinath Thakur. That means Ganpat is related to mother of Lilabai, who says that her father's name is Kashinath Thakur. The other person is Gokul Mahipat Rajput. He says that Ganpat was the resident of his village and a close relative of this gentleman Ganpat. The other person interviewed was one Namdev Khandu Bhamare. He says that the petitioner's grandfather-Aadhar Ganpat Bhamare was residing with Khandu Bhamare-father of Namdev. The said Namdev Khandu Bhamare gave information with regard to the traditional occupation of the community and that was found to be consistent with the information provided to the Committee by the researchers. The anthropologists and researchers gave information about occupation, characteristics, traits, customs and rituals of the Hindu Thakur Scheduled Tribe, but the information, which was provided to the Vigilance Cell in the present case, does not match

or tally with the same. Even otherwise, in the genealogy and family tree, there may be a reference made to Ganpat Lala Thakur by Hemant and equally to a person named as Aadhar Ganpat Bhamare (Thakur), but neither Sadanand or Hemant gave a family tree. How the surname of Ganpat and Aadhar can differ with each other when Aadhar is said to be the son of Ganpat Lala Thakur has never been clarified either to the Committee or to us.

32. Mr.Mendadkar would submit that for the proper genealogy and family tree to be placed on record, this matter be remanded back to the Committee. That is to enable the petitioner to meet the case against him. Mr.Mendadkar submits that if such an opportunity is not given, then, a genuine and *bona fide* student like the petitioner, who has cleared the degree course, would be the sufferer. He would not be able to enjoy the fruits of the degree certificate or clearance of the qualifying examination. We do not think that this request of Mr.Mendadkar has any basis. First of all, it was for the petitioner's father-Chandravilas to have satisfied the Committee together with the petitioner that their claim was genuine and *bona fide*. While seeking to establish their claim, they relied upon the caste validity certificate issued in favour of Hemant. The said Hemant obtained the certificate of validity by relying upon the certificate of validity issued to Sadanand. When

we find that the claims of both-Hemant and Sadanand were tainted and vitiated by misrepresentation of facts and the Committee was misled in issuing the certificates of validity, then, the second remand to the Committee in this case is of no avail. We cannot allow the parties to get over findings of fact, which are binding on them by such a process. A remand is not to enable the parties to get over the lacunae or defects in their cases. In this case, the lacuna or defect goes to the root of the matter. The finding of fact is that the petitioner, his father and his real uncle stated to be from the paternal side misled the Committee and the certificates of validity issued to the father and real uncle was issued by the Committee after it was misled. The complete information about the family and the relatives was held back from the Committee. Thus, this is also a suppression of material and relevant facts. Once the certificate of validity is denied on such a ground, then, we do not think that we can accede to the request of Mr.Mendadkar for a remand.

33. As a result of the above discussion, we find that the impugned order neither suffers from perversity nor a error of law apparent on the face of record enabling us to interfere therewith in writ jurisdiction. This jurisdiction is extraordinary, equitable and discretionary. It cannot be exercised to uphold a claim, which

is not genuine and lacks in *bona fides*. The writ jurisdiction is meant to promote truth, honesty and justice and not to defeat or frustrate it. All the more, therefore, this petition has no merit and it is dismissed.

34. At this stage, Mr.Mendadkar submits that ad-interim order passed on this petition be continued for a period of four weeks so as to enable the petitioner to challenge this order in the higher Court.

35. This request is opposed by the respondents.

36. The earlier order was passed only to enable the petitioner to satisfy this Court on the basis of the records that the claim is genuine and bona fide. After that ad-interim order, much water has flown and we have found that the claim is vitiated by misrepresentation of material and relevant facts and equally suppression thereof. When such findings are returned by us, then, we do not think that there is any justification to continue the ad-interim order. The request in that behalf is rejected.

37. The orders passed by this Court and relied upon by Mr.Mendadkar have been rendered in the peculiar facts. There, family tree was not held back nor is it a case where incomplete genealogy or information about the relatives from the paternal

side was provided. In those cases, there were no disputes about the genealogy and family tree. That is why the pre-constitutional documents were held to be of enormous probative value. Such is not the case before us. Hence, the order passed in the case of Rahul Rajendra Thakur (supra) can be distinguished on facts. Similar is the case of the other order passed in the case of Vaibhav Dharma Pawar (supra). While we agree that the affinity test is not a litmus test, it is clear from the order passed in the case of Vaibhav Dharma Pawar that this Court was convinced that there is no doubt about the genealogy of the petitioner. Paras 12 and 13 of this order have not been read by Mr.Mendadkar and having read them, he would not have relied upon this order.

38. Once the petition is dismissed by us, we return the original records of the Committee placing certified true copy thereof on the record of this petition.

(R.I.CHAGLA, J.)

(S.C.DHARMADHIKARI, J.)