

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

WRIT PETITION NO. 6130 OF 2022

Shankar s/o. Shivsing Kayte,
Age 30 years, Occu. Agril.,
R/o. Avhana, Tq. Bhokardan,
District Jalna

....Petitioner

Versus

1. District Collector, Jalna,
District Jalna.
2. District Caste Certificate
Scrutiny Committee, Jalna,
District Jalna,
Through its Member Secretary.

....Respondents

Mr. S.S. Phatale h/f. Mr. M.S. Deshmukh, Advocate for petitioner.
Mr. S.G. Sangle, AGP for respondents/State.

**CORAM : RAVINDRA V. GHUGE &
ARUN R. PEDNEKER, JJ.**

**RESERVED ON : AUGUST 11, 2022.
PRONOUNCED ON : AUGUST 30, 2022.**

JUDGMENT : [PER ARUN R. PEDNEKER, J.]

- 1) Rule. Rule made returnable forthwith. With the consent of parties, heard finally.
- 2) Heard Mr. S.S. Phatale holding for Mr. M.S. Deshmukh, learned advocate for petitioner and Mr. S.G. Sangle, learned AGP for respondents.
- 3) By the present writ petition, the petitioner seeks to quash and

set aside the order passed by the respondent No. 2 – District Caste Scrutiny Committee, Jalna (hereinafter referred to as 'Scrutiny Committee' for short) dated 13th April, 2022, whereby the caste claim of the petitioner is invalidated.

4) The petitioner claims to be belonging to 'Rajput Bhamta' 'Vimukta Jati', (denotified tribe). 'Rajput Bhamta' is notified as 'Vimukta Jati' (denotified tribe) in the list of Scheduled Castes, Scheduled Tribes, Other Backward Classes, Special Backward Category, De-Notified Tribes and Nomadic Tribes in the State of Maharashtra as under :-

	जाती Caste		तत्सम Equivalent
1)	---	-	---
10)	Rajput Bhamta	10)	A) Pardeshi Bhamta B) Pardeshi Bhamti
11)	---	-	---

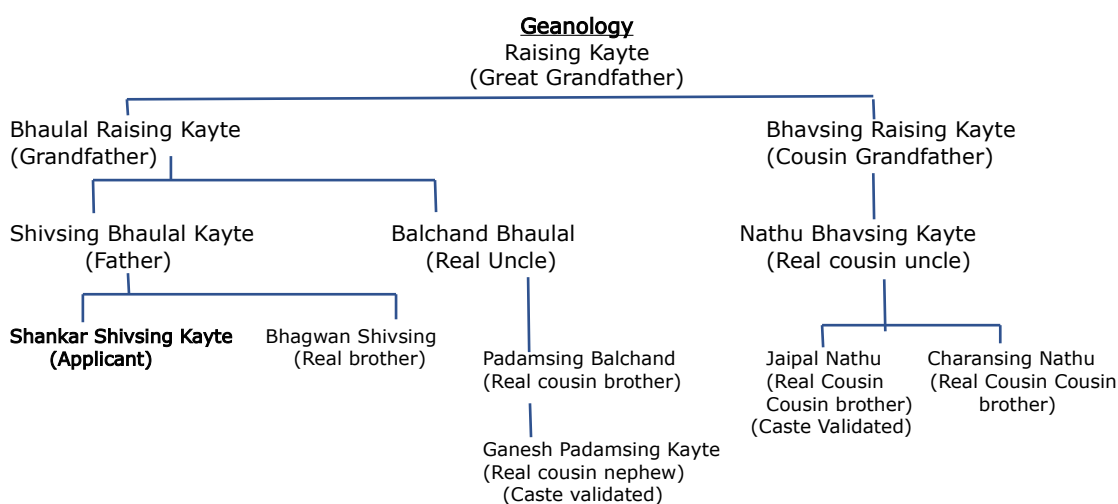
5) The petitioner is elected as a 'member' of Village Panchayat, Avhana/Thalewadi, Taluka Bhokardan, District Jalna in January 2021, from a seat reserved for 'Backward Class' which includes "Vimukta-Jati". The petitioner was issued a caste certificate by the competent authority on 22.12.2020 and the same was submitted for verification on 24.12.2020 to the Scrutiny Committee, Jalna. The petitioner submitted supporting documents along with his caste certificate to the Scrutiny Committee. Below chart indicates the documents submitted by the petitioner and the Scrutiny Committee's

observations on the same as under :-

Sr. No.	Details of documents	Relation-ship with applicant	Registration of caste	Date of registration
1	2	3	4	5
1	School Leaving Certificate issued by Headmaster of Shri Atmanand Vidyalaya, Avahana to Shri Bhagwan Shivsing Kayte	Brother	Rajput Bhamta	27.06.2005
2	School Leaving Certificate issued by Headmaster of Shri Atmanand Vidyalaya, Avahana to Shri Shankar Shivsing Kayte	Himself	Rajput Bhamta	30.06.2003
3	School Leaving Certificate issued by Headmaster of Kendriya Primary School, Avahana to Shri Bhagwan Shivsing Kayte	Brother	Rajput Bhamta	02.07.1999
4.	In the Khasra Pahani Patrak issued by Tahsildar Bhokardan name of Bhavsing Raising is recorded	The said person is claimed to be the grandfather of the applicant. But, relationship of applicant with the said person is not proved.	Pardeshi	1954-55
5	Caste certificate issued by Sub Divisional Officer Bhokardan to Ganesh Padamsing Kaithey	In the genealogy the applicant mentions that the said person is his cousin nephew. But relationship is not established	Rajput Bhamta	09/06/2016
6	Caste certificate issued by Sub Divisional Officer Bhokardan to Mangalsing Subhashsing Kaithey	In genealogy name is not mentioned	Rajput Bhamta	06.10.2016
7	Aadhar Card of Shri Shankar Shivsing Kayte	Himself	Nil	Nil
8	Affidavit sworn in by Shri Shankar Shivsing Kayte stating that documents are true	Himself	Nil	23.12.2020
9	Affidavit of Shri Shankar Shivsing Kayte in respect of genealogy	Himself	Nil	23.12.2020
10	Affidavit sworn in by Shri Shankar Shivsing Kayte stating that his father and grandfather are illiterate	Himself	Nil	23.12.2020
11	In the ration card issued by Tahsildar Bhokardan to Smt Gorabai Balchand, there is entry of name of Bhalchand	Cousin	Nil	Nil

	Bhavlal.			
12	Aadhar card of Shri Padamsing Balchand Kayte	The said person is claimed to be cousin - cousin brother of applicant. But relationship of applicant with the said person is not established.	Nil	Nil
13	Aadhar card of Shri Balchand Bhavlal Kayte	The said person is claimed to be cousin of applicant. But, relationship of applicant with the said person is not established.	Nil	Nil
14	Affidavit sworn in by Shri Shankar Shivsing Kayte stating that his father, uncle and grandfather are illiterate	Himself	Nil	17.01.2022
15	Extract of school admission issued to Shri Shankar Shivsing Kayte issued by Headmaster of Kendriya Primary School, Avhana	Himself	Rajput Bhamta	02.07.1996
16	Caste validation certificate issued to Shri Charansing Premsing Kayte by the Divisional Caste Verification Committee, Aurangabad	Not mentioned in genealogy	Rajput Bhamta	27.02.2015
17	Caste validation certificate issued to Shri Jaypalsing Nathusing Kayte by the Divisional Caste Verification Committee, Aurangabad	In genealogy shown as cousin -cousin nephew. But relationship is not established	Rajput Bhamta	28.9.2012
18	Caste validation certificate issued by District Caste Certificate Verification Committee, Jalna to Shri Ganesh Padamsing Kayte	In genealogy shown as cousin nephew. But relationship is not established	Rajput Bhamta	17.07.2019
19	Caste validation certificate issued to Shri Gokulsing Kashinath Kayte by the Divisional Caste Verification Committee, Aurangabad	In genealogy shown as cousin -cousin nephew. But relationship is not established	Rajput Bhamta	13.08.2015
20	Affidavit sworn in by Shri Shankar Shivsing Kayte in respect of genealogy	Himself	Nil	07.03.2022

6) The petitioner also relied on three caste validity certificates, claiming that the said certificates are of his paternal relations i.e. Ganesh Padamsing Kayte dated 17.7.2019, who is claimed to be petitioner's cousin nephew and Jaypalsing Nathusing Kayte dated 28.9.2012, who is claimed to be second degree cousin of the petitioner. The petitioner also claimed that caste validity certificate is issued in favour of his second degree cousin Gokulsing Kashinath Kayte on 13.8.2015. The petitioner also gave his genealogy, which is reproduced below :-



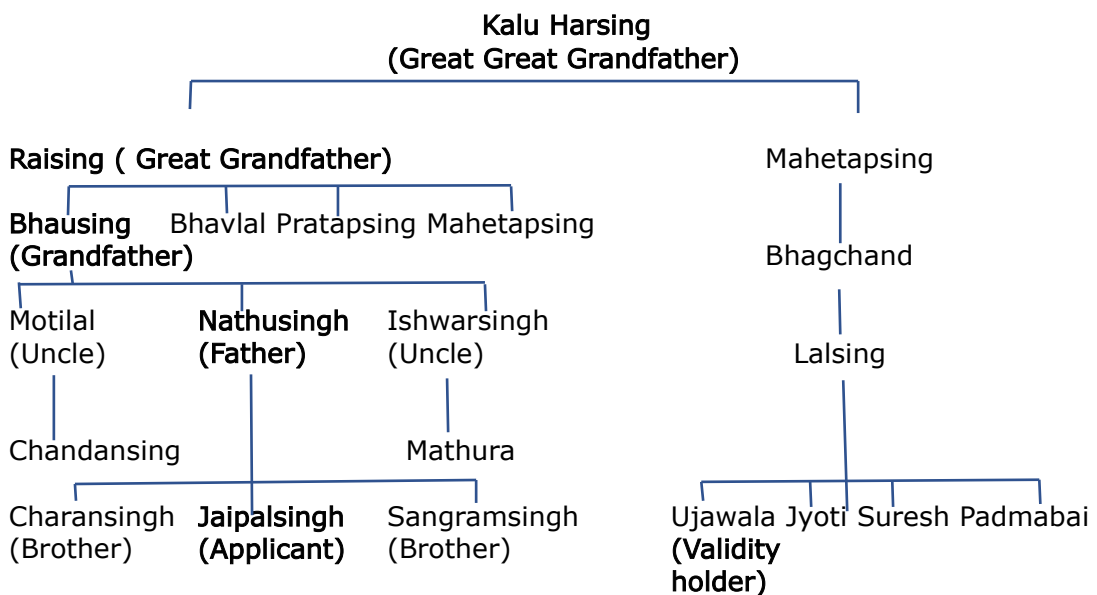
7) The Scrutiny Committee referred the claim of the petitioner to the Vigilance Cell for investigation. The Vigilance Cell, on investigation, gave its report dated 23rd December, 2021. The petitioner was given a copy of the Vigilance Cell Report and was given an opportunity to make oral submissions and respond to the said vigilance report. The Scrutiny Committee, having gone through the report of the Vigilance Cell and the documents submitted by the petitioner, held that the petitioner was not able to establish his

relations with the aforesaid cousins, who have caste validity certificates in their favour. The Scrutiny Committee further held that the petitioner does not have any documents prior to the notified date of 1961 (i.e. the date on which 'Rajput Bhamta' was notified as 'Vimukta Jati') to support his claim to be of 'Rajput Bhamta' denotified tribe and thus, the petitioner is held to be not belonging to the said Vimukta Jati. The petitioner has, thus, challenged the order passed by the Scrutiny Committee in the present writ petition before us.

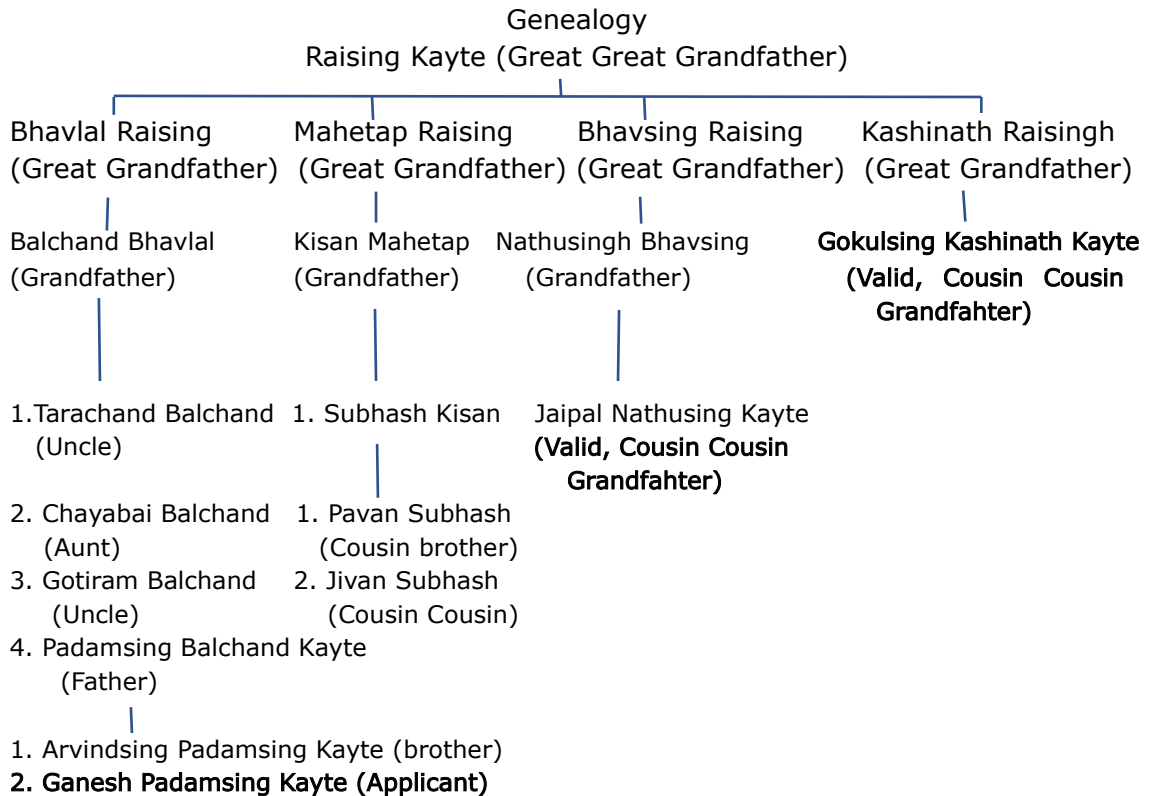
8) The learned counsel for the petitioner Mr. Phatale submitted that the petitioner had submitted sufficient evidence to the Scrutiny Committee to establish that he belongs to 'Rajput Bhamta' denotified tribe. Mr. Phatale submits that the vigilance report was in favour of the petitioner and as such, he was not called upon to produce detailed evidence establishing his relation with the cousins holding the validity certificate. He further submits that all the documents were also not in his possession at the time of the hearing before the Scrutiny Committee. He further submits that the petitioner's family members are illiterate and thus, they do not have documents, in a terms of revenue record and school certificates, demonstrating his caste prior to 1961. He further submits that the report of Vigilance Cell nowhere indicates that the petitioner does not belong to 'Rajput Bhamta' denotified tribe. Rather there is a positive report that the petitioner belongs to 'Rajput Bhamta' denotified tribe.

9) The learned counsel for the petitioner relies upon the judgment of this Court reported in **2009 (Supp.) Bom.C.R. 898 [Mahesh Pralhadrao Lad Vs. State of Maharashtra and Ors.]**, whereby the Division Bench of this Court has held that non availability of the documents prior to 1961 would not invalidate the claim set up by the applicant. The Division Bench held that the burden of proving the caste is on the claimant and this can be discharged by producing pre and post notification documents.

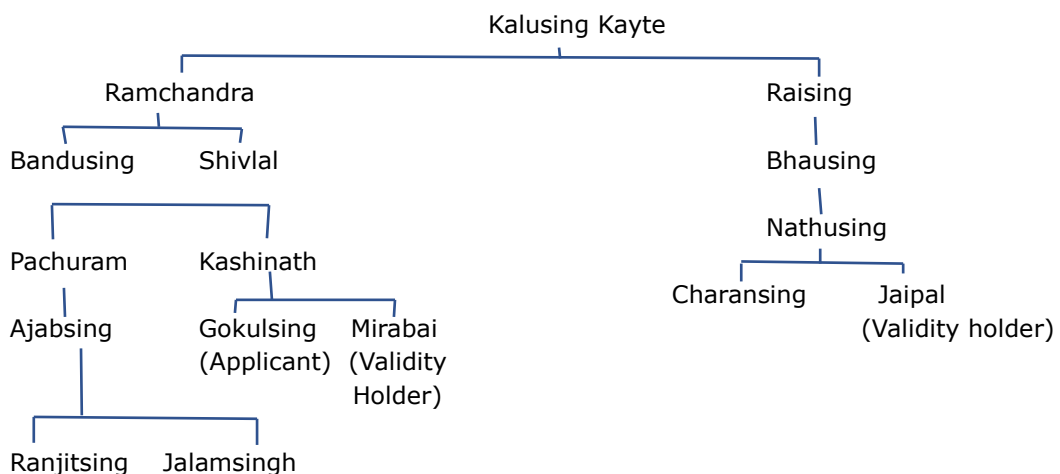
10) The respondents, in their reply, produced the original files of Kayte Jaipalsing Nathusingh, Kayte Ganesh Padamsing and Gokulsing Kashinath Kayte. The learned AGP Mr. Sangle appearing for the Scrutiny Committee submits that the genealogy produced in these three cases does not show that the petitioner is related to them. The genealogy given in the case of Kayte Jaipalsing Nathusing is as under :-



The genealogy given in the case of Kayte Ganesh Padamsing is as under :-



The genealogy given in the case of Gokulsing Kashinath Kayte is as under :-



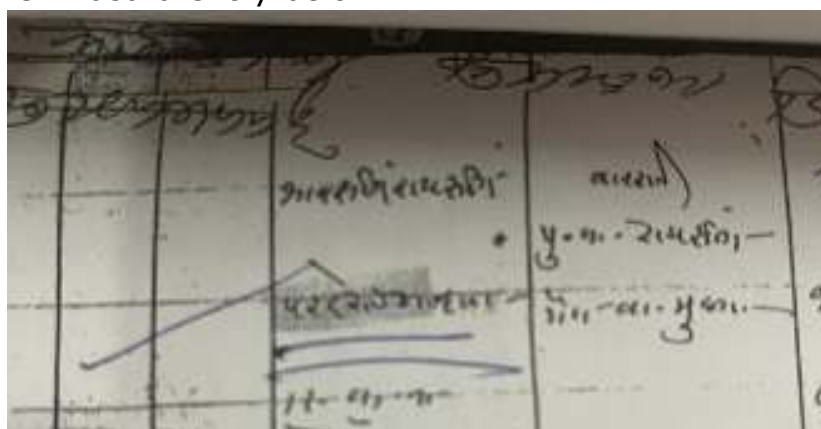
11) The genealogy produced by the petitioner's claimed cousins before the Scrutiny Committee does not clearly match with the

petitioner's genealogy chart, although there are some common entries. Further, the petitioner has not been able to clearly establish his relationship with any of the caste validity holders. Thus, no fault can be found in the Committee's finding that the petitioner was not able to establish his relationship with his claimed cousins, holding caste validity certificates.

12) In absence of proof of caste validity within family relations, we are now constrained to look at the petitioner's personal immediate relations i.e. his father and grandfather's record and the vigilance report to examine whether the petitioner belongs to 'Rajput Bhamta', 'Vimukta Jati'.

13) Having perused the genealogy of the petitioner, wherein his immediate relations are father Shivsing Bhaulal Kayte and grandfather Bhaulal Raising Kayte, the earliest document produced in support of the caste claim of the petitioner, is of his grandfather Bhaulal Raising Kayte, revenue record entry of the year 1954. On examination of the said revenue record entry, the Scrutiny Committee held that the entry shows that Bhaulal Kayte belongs to 'Pardeshi' which is notified as Other Backward Category (OBC) at item No. 222 of the OBC list. The Scrutiny Committee also held that the petitioner was not able to establish his claim that Bhaulal Raising is the grandfather of the petitioner.

14) We have perused the petitioner's grandfather's revenue record entry of 1954 very closely and on examination of the original record produced, we find that the Khasara entry of the petitioner's grandfather's name is 'Pardeshi xxxx' We are unable to decide exactly what word is attached to the word 'Pardeshi'. But, it is definitely not 'Pardeshi' alone. We have reproduced the photocopy of the relevant page of the Khasara entry below :-



15) If the above revenue entry is 'Pardeshi Bhamta', then the same would be covered within the entry of 'Rajput Bhamta', since 'Rajput Bhamta' includes 'Pardeshi Bhamta' or 'Pardeshi Bhamti' as noted at para 3.

16) The document is also of 1954 which is much prior to the date of notification including 'Rajput Bhamta' in the list of 'Vimukta Jati'. Further, the petitioner has also given evidence in terms of genealogy and affidavits stating that Bhaulal is the grandfather of the petitioner. It is also pertinent to note that the vigilance has not given any adverse report against the petitioner, rather there is a positive report

by the Vigilance, that the petitioner is known to be belonging to 'Rajput Bhamta', 'Vimukta Jati'.

17) In view of the aforesaid, we set aside the impugned order of the Scrutiny Committee and remand this matter back to the Scrutiny Committee to look into the above Khasara entry wherein the caste of the petitioner's grandfather is notified as 'Pardeshi xxxx' and examine whether the same could be 'Pardeshi Bhamta'. The petitioner can also adduce further evidence to establish his claim in this regard. Since we are remanding this matter back, the petitioner would also be entitled to produce further evidence before the Scrutiny Committee on all issues.

18) Re-verification of the caste claim shall be done within a period of three months from the receipt of the records.

19) Writ petition is disposed off. Rule is made absolute in above terms.

[ARUN R. PEDNEKER J.]

[RAVINDRA V. GHUGE, J.]

SSC/