

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO.5384 OF 2019

WITH

WRIT PETITION NO.5385 OF 2019

WRIT PETITION NO.5384 OF 2019

1. Ram s/o Balkrushna Pinjarkar,
Aged 51 years,
Occupation – Service as Home Guard,
R/o. Krushna Kamal Madhav Ashram Nagar,
Sai Nagar, Amravati
2. Manohar s/o Balkrushna Pinjarkar,
Aged 58 years,
Occupation – Retired from MSRTC,
R/o. Mangilal Plots,
Camp Road, Amravati
3. Rekha Ramkrushna Pinjarkar,
Aged 59 years,
Occupation – Retired from Service,
Mangilal Plots,
Camp Road, Amravati

...PETITIONERS

VERSUS

1. The Scheduled Tribes Caste Certificate
Scrutiny Committee,
through its Member Secretary,
Chaprasipura, Amravati

2. Commandant General,
Home Guards,
Near Old Secretariat, Mumbai,
3rd Floor, Mahatma Gandhi Path,
Mumbai
3. The Divisional Controller,
Maharashtra State Road Corporation,
through its Divisional Controller,
Thane
4. The Zilla Parishad,
through its Chief Executive Officer,
Amravati

...RESPONDENTS

WITH

WRIT PETITION NO.5385 OF 2019

Shyam s/o Balkrushna Pinjarkar,
Aged 49 years,
Occupation – Service as Police Havaladar,
R/o. Krushna Kamal, Mahanubhav Ashram,
Sai Nagar, Amravati

...PETITIONER

VERSUS

1. The Scheduled Tribes Caste Certificate
Scrutiny Committee,
through its Member Secretary,
Chaprasipura, Amravati
2. Superintendent of Police,
Amravati (Rural),
Tq. District Amravati

...RESPONDENTS

WP No.5384/19

Shri R.S. Parsodkar, Advocate for the petitioners.
Mrs. K.R. Deshpande, A.G.P for respondent Nos.1 & 2/State.
Shri V.H. Kedar, Advocate for respondent No.3.
Shri S.S. Shinde, Advocate for respondent No.4.

WP No.5385/19

Shri R.S. Parsodkar, Advocate for the petitioners.
Mrs. K.R. Deshpande, A.G.P for respondent Nos.1 & 2/State.

CORAM : A.S. CHANDURKAR AND
URMILA JOSHI-PHALKE, JJ.

DATED : JULY 26, 2022.

JUDGMENT (Per Urmila Joshi-Phalke, J.)

Heard learned counsel for the parties.

2. **RULE.** Rule made returnable forthwith.

3. The petitioners belong to “Raj” Tribe which is recognised as “Scheduled Tribe” as per entry No.18 in the Constitution (Scheduled Tribes) Order, 1950. It is the contention of the petitioners that they had been conferred with the caste certificates. The caste claim of the petitioners were submitted to respondent No.1-Caste Scrutiny Committee for validation. The

petitioners had submitted documents of pre-independence era which are not considered by respondent No.1-Caste Scrutiny Committee. The petitioner Nos.1 and 2 in Writ Petition No.5384/2019 were in service. The petitioner No.2 retired from service on 30/04/2019. Petitioner No.3 also retired from service on 30/04/2018. The petitioner in Writ Petition No.5385/2019 was also in service. The Caste Scrutiny Committee rejected the claim of the petitioners only on the basis of affinity. The Caste Scrutiny Committee invalidated the caste claim on the ground that tribe claim of the petitioners in Writ Petition No.5385/2019 was invalidated earlier and said order was not challenged. The claim of the petitioners was invalidated on the ground that the tribe claim of Vijay Shankar Pinjarkar was invalidated by the Scrutiny Committee was not challenged. As per the contention of the petitioner that petitioner No.1-Ram Balkrushna Pinjarkar in Writ Petition No.5384/2019 conferred with caste certificate on 05/07/1989. The petitioner No.2-Manohar Balkrushna Pinjarkar is conferred with caste certificate on 16/12/1989. The petitioner No.3-Rekha Ramkrushna Pinjarkar is conferred with the caste certificate of "Raj" Scheduled Tribe on 19/07/1984. The petitioner No.1 is serving as an Instructor in Home Guard Department. The

petitioner No.2 was serving in MSRTC whereas petitioner No.3 was serving in Zilla Parishad, Amravati. Their tribe claims were forwarded to the Caste Scrutiny Committee.

4. As per the contention of the petitioners their father was born on 01/04/1930. As per the Kharij Register entry issued by the Panchayat Samiti, Chandur Bazar caste claim was recorded as “Raj” Scheduled Tribe. As per the transfer certificate issued by the Primary School dated 01/07/1913 his grandfather-Laxman was studying in the Primary School, Asegaon Purna from 01/07/1913 to 09/04/1915. The caste of his grandfather was recorded as a “Raj”. His father and uncle was recorded as “Raj” Scheduled Tribe pertaining to the years 1923, 1928, 1933 and 1937. Thus as per the petitioners there are consistent entries of his forefathers recorded as “Raj” Scheduled Tribe. The tribe claim of the petitioners was referred for verification to the Vigilance Cell. The Vigilance Cell had submitted its report. The vigilance enquiry report shows documents of pre-independence era showing the tribe of the ancestors of the petitioners as “Raj” Scheduled Tribe. But the Committee had ignored the same and invalidated the claim. The said order is under challenge in the present writ petitions. As per

the contention of the petitioners, the Caste Scrutiny Committee had brushed aside the validity certificate of real cousin brother. The petitioner's cousin brother was granted validity certificate which was not considered by the Scrutiny Committee and erroneously invalidated the claims of the petitioners.

5. On the other hand, Mrs. Deshpande, learned Assistant Government Pleader submitted that the Scrutiny Committee was justified in refusing to grant any validity certificate and, therefore, the order passed by respondent No.1-Caste Scrutiny Committee is correct one and the writ petition deserves to be dismissed.

6. Heard Shri Parsodkar, learned Counsel for the petitioners. He submitted that the Committee while invalidating the tribe claim considered irrelevant evidence and did not consider old documents which are of pre-independence era. The old documents which were placed on record before the Caste Scrutiny Committee by the petitioners and some of them were also collected by the Vigilance Cell were not considered by the Committee. There are several documents on record to show that the petitioners belong to "Raj" Scheduled Tribe. He submitted that as per the

family tree Maroti is the first ancestor who was having three sons i.e. Laxman, Haribhau and Ramuji alias Rambhau. Laxman had five sons i.e. Ramkrushna, Balkrushna, Damodhar, Kisan and Vitthal. Haribhau had one daughter by name Narmada (deceased). Ramuji alias Rambhau had two daughters by name Tarabai and Ambabai and two sons by name Namdeo and Shankar. Ramkrushna who is the son of Laxman had two sons and three daughters. Petitioner No.3-Rekha in Writ Petition No.5384/2019 is the daughter of Ramkrushna. Petitioner No.1-Ram is the son of Balkrushna. Petitioner No.2-Manohar is also the son of Balkrushna whereas Shyam is the son of Shankar. He further submitted that the documents on record shows that Kotwal register entry regarding the birth date of Balkrushna Laxman is 01/04/1930. The school leaving certificate issued by the primary school, Asegaon Purna shows birth date of Laxmanrao Pinjarkar as 18/07/1929. His caste was recorded as "Raj". Kisan Laxmanrao Pinjarkar was born on 09/04/1926 as per the school leaving certificate issued by primary school, Asegaon Purna. Dakhal Kharij register extract shows that Namdeo Ramuji born on 19/01/1915. Vitthal Laxman born on 01/07/1922. Kisan Laxman born on 09/04/1926. Ramkrushna Laxman born on 01/04/1930 and Balkrushna Laxman

born on 01/04/1930. He submitted that there are consistent entries showing the caste “Raj” on the documents which are of pre-independence era. There is no dispute about the correctness of family tree. There are sufficient documentary evidence before the Caste Scrutiny Committee to give validity certificate. But the Caste Scrutiny Committee considered irrelevant documents and had not considered documents prior to 1950. For the reasons that the caste of the petitioner No.1-Ram was recorded as Gawandi. The tribe claim of petitioner No.2-Manohar was also invalidated on the ground that his tribe was recorded as Gawandi and the caste claim of petitioner No.3-Rekha was also invalidated on the ground that his tribe had been recorded as Gawandi. It is further observed by the Caste Scrutiny Committee that Vijay Shankar Pinjarkar who is the uncle of the present petitioners and his tribe claim was invalidated. He also challenged the said order in SLP No.3410-3411/2008 but it was dismissed by the Hon’ble Supreme Court. Therefore, the tribe claim of the petitioners was to be invalidated. He further pointed out that the Vigilance Cell procured some documents which also shows that the petitioner’s ancestors belong to “Raj” Scheduled Tribe. The Vigilance Cell has also collected the documents to that effect.

7. As against this, the learned Assistant Government Pleader submitted that the Scrutiny Committee was justified in refusing to grant any validity certificate. In earlier petition i.e. in the petition filed by Vijay Shankar Pinjarkar, his tribe claim was invalidated. At the relevant time this Court held that the petitioner i.e. Vijay Shankar Pinjarkar did not belong to “Raj” Scheduled Tribe. The said judgment was then challenged to the Hon’ble Apex Court and the Hon’ble Apex Court also dismissed the petition.

8. After hearing both the parties at length and after perusing the record maintained by the Scrutiny Committee, apparently it shows that many documents placed on record by the petitioners as well as collected by the Vigilance Committee are the documents of pre-independence period. The school record, revenue record, registered Gift-Deed clearly goes to show that the caste of the ancestor namely Laxman who is the great-grandfather of the petitioners was recorded as “Raj”. The caste of Namdeo Ramuji, Kisan Laxmanrao, Ramkrushna Laxmanrao and Balkrushna Laxmanrao were also recorded as “Raj”. Their birth entries are of pre-independence era.

9. Though the petition of Shyam Balkrushna Pinjarkar is filed at belated stage as Scrutiny Committee had passed an order on 11/05/2005 and he had challenged the said order in the year 2019, he has explained the said delay by making statement that the order of invalidation was not served on the petitioner. He came to know from his real elder brother Ram Pinjarkar that a common order has been passed on 11/04/2005 and there was a record that the tribe claim of the petitioners was also invalidated and thereafter he had challenged the said order. Shyam is also relying upon the very same documents.

10. The Caste Scrutiny Committee came to the conclusion that the candidate's mother tongue is Marathi which is not spoken in "Raj" Scheduled Tribe. The Surnames of the relatives from their community are reported as Pinjarkar, Mangrulkar, Waghmare, etc. These surnames are not associated with the people belonging to "Raj" Scheduled Tribe. The information about the family and community deities, the marital ceremonies observed also did not resemble with that of "Raj" Scheduled Tribe and invalidated the claim of the petitioners.

11. Learned Assistant Government Pleader had made a reference of the order passed in Writ Petition No.4277/2001 in respect of one Vijay Pinjarkar. The said petition came to be dismissed by the Single Bench of this Court. The said order was challenged before the Hon'ble Apex Court, vide SLP No.2182-2183/2011. It is observed by the Caste Scrutiny Committee that in view of order of the Hon'ble Apex Court, the order of the High Court and the Caste Scrutiny Committee is maintained. The order passed in SLP No.2182-2183/2011 was not disclosed by Prashant Pinjarkar in his writ petition No.54/2000 which amounts to suppression of previous Court's order in respect of blood relations.

12. The findings recorded by the Caste Scrutiny Committee are totally erroneous and without application of mind. In the first place the order passed by the Hon'ble Apex Court in **SLP Nos.2182-2183/2011 dated 28/02/2011** in the case of **Vijay Shankarrao Pinjarkar** was in view of retirement of Vijay Pinjarkar during the pendency of the Special Leave Petition before the Hon'ble Apex Court. It was held by the Hon'ble Apex Court that :

“The appellant was appointed under the Scheduled Tribe category in the year 1974. His certificate was referred to the Scrutiny Committee in the year 1999 and it was invalidated thereafter. It is the conceded position that consequent to the interim order granted by us the appellant had also continued to be in service and has retired in February, 2011. In view of these facts we do not at this belated stage feel that the appellant should be non-suited, notwithstanding the fact that his certificate has been invalidated by the Scrutiny committee and his writ petition has also been dismissed by the High Court.

We accordingly dispose of the appeals in the above terms and direct that the appellant shall be deemed to have continued in service till the date of his superannuation. The appellant will be given his retiral dues as per law.”

13. Thus, the correctness of the findings recorded by this Court in the writ petition was not gone into while granting retiral benefits to the said petitioner.

14. If the Caste Scrutiny Committee would have perused the order passed by the Division Bench of this Court in **Writ Petition No.54/2000 dated 06/10/2017** in the case of **Prashant Damodhar Pinjarkar**, this Court on the basis of various documents of

pre-independence era considered and allowed the petition, whereas the judgment passed in *Vijay Pinjarkar's* matter was by learned Single Judge. According to the Scrutiny Committee, Prashant Pinjarkar is the nephew of Vijay Pinjarkar and cousin brother of the present petitioners.

15. In the present matter also there is no dispute about the family tree which is produced on record. As per the family tree Maroti was the great grandfather of the petitioners. Laxman, Haribhau, Ramuji @ Rambhau are the grandfathers. The extract of school leaving register maintained by the school in respect of Laxman shows that his birth date was 01/04/1929 and his caste was recorded as "Raj". Likewise Kisan Laxmanrao Pinjarkar's birth date as 09/04/1926 and his caste was also recorded as "Raj". There are consistent entries in respect of the ancestors of the petitioners namely Namdeo Ramuji whose caste was recorded as "Raj" and birth date as 19/01/1915. Vitthal Laxman's birth date as 01/07/1922 and his caste was recorded as "Raj". Ramkrushna Laxman's birth date as 01/04/1930 and his caste also recorded as "Raj". Balkrushna Laxman's birth date as 01/04/1930 and his caste was also recorded as "Raj". Thus the entries consistently show that

the ancestors of the petitioners belong to the tribe “Raj”. The documents which pertain to the close relatives of the petitioners prior to 1950 were discarded by the Scrutiny Committee on the ground that entry of “Raj” could not be verified from the school which is totally erroneous as there is nothing on record to show that at the relevant time such affidavit used to be maintained by the school. So far as reference of Pinjarkar’s family is concerned, the Division Bench of this Court has already set aside the decision of Caste Scrutiny Committee invalidating the tribe claim of Prashant Damodhar Pinjarkar and certificate was also issued in his favour treating his tribe as “Raj Scheduled Tribe”. Admittedly the vigilance cell obtained the entries prior to pre-independence era but they were not considered by the Caste Scrutiny Committee. Thus there was ample evidence on record before the Caste Scrutiny Committee in the form of documents which are of pre-independence era showing the entry “Raj”. The Caste Scrutiny Committee failed to consider those documents inspite of earlier order of this Court dated 12/01/2021 in Writ Petition No.3724/2020. The Caste Scrutiny Committee failed to consider the documents which are of pre-independence era and were carrying great weightage/probative value as they were referring to

the entry “Raj”. All these documents were of close blood relatives of the petitioner i.e. father, grandfather, great grandfather, etc. There is no substance in the contention of the Caste Scrutiny Committee that the petitioners are speaking Marathi language. They are not following the customs of “Raj” community. Probative value of old pre-independence documents cannot be ignored on that basis. Moreover, in the matter of Prashant Pinjarkar, the Division Bench of this Court has already directed to issue certificate to Prashant Pinjarkar by showing his tribe as “Raj Scheduled Tribe”. The Caste Scrutiny Committee failed to appreciate that even Prashant Pinjarkar is declared as “Raj Scheduled Tribe”. The said judgment is binding on the Caste Scrutiny Committee. The Caste Scrutiny Committee cannot on its own give importance to the oral statements bypassing the judgment of the Division Bench of this Court.

16. In that view of the matter, the orders passed by the Scrutiny Committee dated 31/05/2019 and 11/04/2005 by which the tribe claim of the petitioners i.e. Ram Balkrushna Pinjarkar, Manohar Balkrushna Pinjarkar and Rekha Ramkrushna Pinjarkar in Writ Petition No.5384/2019 and Shyam s/o Balkrishna Pinjarkar in

Writ Petition No.5385/2019 respectively invalidating the tribe claim of the petitioners is liable to be quashed and set aside. The orders passed by the Scrutiny Committee dated 31/05/2019 and 11/04/2005 are liable to be quashed and set aside.

17. The order passed by the Scrutiny Committee dated 11/04/2005 invalidating the claim of Shyam Balkrushna Pinjarkar is also liable to be quashed and set aside.

18. We, therefore, pass the following order :

(a) The writ petition is allowed.

(b) The order dated 31/05/2019 passed by the Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati is set aside.

(c) The order dated 11/04/2005 passed by the Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati is set aside.

(d) It is declared that the petitioners in Writ Petition No.5384/2019 namely Ram s/o Balkrushna Pinjarkar,

Manohar s/o Balkrushna Pinjarkar and Rekha s/o Ramkrushna Pinjarkar belong to “Raj Scheduled Tribe” which is entry No.18 in the Constitution (Scheduled Tribes) Order, 1950.

(e) It is further declared that the petitioner in Writ Petition No.5385/2019 namely Shyam s/o Balkrushna Pinjarkar belongs to “Raj Scheduled Tribe” which is entry No.18 in the Constitution (Scheduled Tribes) Order, 1950.

(f) The Scrutiny Committee shall issue the validity certificate to the petitioners within a period of six weeks from receipt of copy of the judgment. The employer shall release the retiral benefits of the concerned petitioners.

19. Rule is made absolute in the aforesaid terms. There will be no order as to costs.

(URMILA JOSHI-PHALKE, J.)

(A.S. CHANDURKAR, J.)