

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

WRIT PETITION NO.2630 OF 2021

Prajwal s/o Shankar Akmar ... **PETITIONER**

VERSUS

1. The State of Maharashtra
through its Secretary,
Social Welfare Department
Mantralaya, Mumbai
2. Scheduled Caste, other backward
classes and special backward category
the notified tribes and nomadic tribes
District level caste certificate
verification committee Hingoli,
through its Member Secretary
3. Chhatrapati Shivaji High School
and Junior College, Sharda Nagar
Sagroli, Tq. Biloli, Dist. Nanded ... **RESPONDENTS**

...

Advocate for Petitioner : Mr. Mahesh P. Kale
A.G.P. for respondent Nos.1 and 2 : Mr. S.G. Sangale

...

**CORAM : MANGESH S. PATIL &
NEERAJ P. DHOTE, J.J.**

DATE : 23.10.2023

ORDER (MANGESH S. PATIL, J.) :

The petitioner is challenging the order of invalidation refuting her claim of being belonging to 'Wani' OBC.

2. At the joint request of the parties the matter is heard finally at the stage of admission.

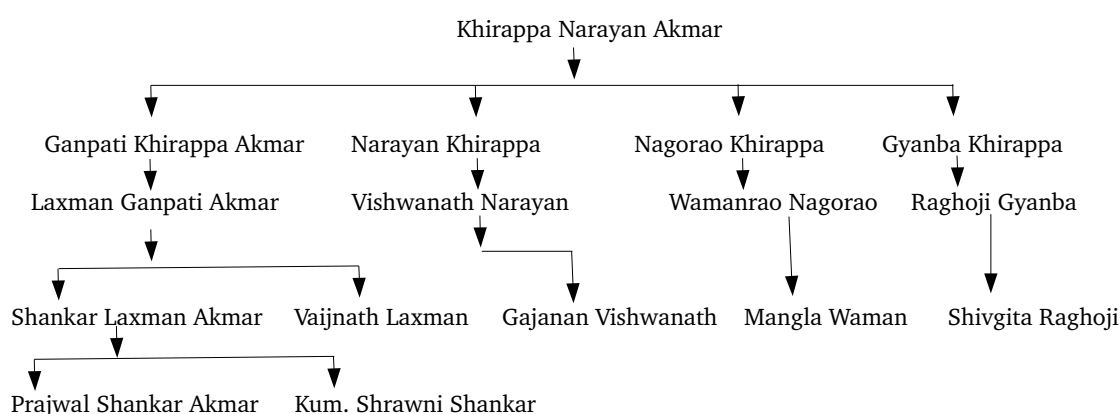
3. The learned advocate for the petitioner submits that except one contrary entry in respect of his father, Shankar of 1990, wherein, he was described as 'Lingdare' there was no contrary record. The petitioner had admitted this contrary entry while filing response to the vigilance report. In the affidavit he had expressly stated that it was an error to record as Lingdare. He would then submit that petitioner's second degree cousin Gajanan Vishwanath Akmar is a validity holder. The Committee has illegally refused to extend its benefit to him by a vague stand that there was no evidence to show her relationship with him. He would also point out that a favourable record, wherein, her second degree paternal aunts Mangla Waman Akmar's school record of 1969 and of Shivgita Raghoji Akmar describing them as 'Wani' has been ignored by the Committee for the same reason. In fact the petitioner had given a detailed genealogy on oath which has been clearly overlooked by the Committee. The conduct of the committee in ignoring the older favourable record and banking upon a stray and isolated contrary entry of the father's school record of later date is perverse and arbitrary.

4. The learned advocate for the petitioner in addition would submit that to put at rest any controversy the petitioner along with his affidavit has filed affidavit of validity holder Gajanan Vishwanath Akmar in this Petition substantiating petitioner's relationship with him and even describes Mangla and Shivgita as his distant aunts.

5. Per contra, the learned AGP opposes the petition. He submits

that there was no reason why the petitioner's father's school record should have indicated that he was 'Lingdare'. The committee has taken a plausible view on failure of the petitioner to demonstrate his relationship with the validity holder Gajanan and the ladies Mangla and Shivgita.

6. We have carefully considered the rival submissions and perused the papers. The petitioner has given following genealogy to substantiate her claim :



7. It is apparent that the aforementioned genealogy has not been disputed by the Committee nor does the impugned order indicate as to why this genealogy could not have been relied upon. Apart from the fact that Gajanan who is a validity holder has now come forward and has filed affidavit in support of the petitioner giving exactly the same genealogy, we have also called his original file. In his own file also Gajanan had filed the affidavit and provided the same genealogy. If such is the state of affairs, the Committee could have taken pains to verify the fact by looking into the original file of Gajanan since the petitioner was seeking to derive benefit of his validity. The Committee without taking pains to look into the original file of Gajanan has straightaway jumped to the conclusion about petitioner

having failed to substantiate the genealogy showing as to how the validity holder Gajanan was related to him.

8. Similarly all these genealogies, furnished by the petitioner and the one furnished by Gajanan in his own case as well as in the affidavit annexed to the petition expressly demonstrate that even Mangla Waman Akmar and Shivgita Raghoji Akmar are related to them and are apparently second degree cousins *inter se* and so is petitioner's father Shankar. Therefore, even observation of the Committee to refuse to consider favourable records of Mangla Waman Akmar and Shivgita Raghoji Akmar substantiating petitioner's claim of being belonging to 'Wani' is clearly perverse and arbitrary.

9. The Committee has not given any explanation as to why the validity issued to Gajanan does not enure to petitioner's benefit. Once having seen that validity holder Gajanan is the second degree paternal cousin who possesses the validity issued by following due process of law the petitioner is entitled to derive the benefit.

10. Independently, the presidential order notifying 'Wani' as OBC was issued on 13.10.1967, whereas, the petitioner's paternal aunts Mangala Waman Akmar and Shivgita Raghoji Akmar were admitted in schools in the year 1969 showing them to be belonging to 'Wani'. The committee has not doubted genuineness of such old record. In the circumstances, the order of the scrutiny committee refusing to approve petitioner's claim of belonging to 'Wani' OBC is clearly perverse, arbitrary and capricious.

11. The writ petition is allowed. The impugned order is quashed and set aside. The respondent - committee shall immediately issue validity certificate to the petitioner as belonging to 'Wani (190)' Other Backward Class in the prescribed format, without adding anything.

(NEERAJ P. DHOTE, J.)

(MANGESH S. PATIL, J.)