

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

Writ Petition No. 4432 / 2023

Urmila Chandrakant Baviskar,
Age : 23 Years, Occ.: Student,
R/o Shri Shiv Shankar Nagar,
Wani Galli, Asoda Road,
Tq. & Dist. Jalgaon.

...Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary
Health and Science Department,
Mantralaya, Mumbai.
2. The Scheduled Tribe Certificate
Scrutiny Committee,
Nandurbar Division Nandurbar.
3. The Registrar,
The Maharashtra University of Health,
Science Dindori Road, Nashik.
4. The Principal,
Ashwin Gramin Ayurved College,
Manchi Hill, Ashwi (Bk)
Tq. Sangamner Dist. Ahmednagar.

...Respondents

- - -

Mr. Ameya N. Sabnis, Advocate for the Petitioner.
Mr. S. G. Sangale, AGP for Respondent No.1 and 2/State.
Mrs. Vaishali Choudhari, Advocate for Respondent No.3.
Mr. Satyajeet S. Dixit, Advocate for Respondent No.4.

- - -

**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 11 SEPTEMBER 2023.

FINAL ORDER [SHAILESH P. BRAHME, J.] :

. Heard both the sides finally.

1. The petitioner is assailing the judgment and order dated 24.12.2021 passed by the respondent no.2/Scrutiny Committee, invalidating her tribe claim of Koli Malhar scheduled tribe. She has pressed into service the old school record of Bhaga, Kautik, Ramdas and order passed by the High Court in the matter of Vijay Pralhad Baviskar.

2. The learned Advocate for the petitioner would submit that the marriage invitation cards produced on record from page nos. 83 to 85 indicate the relationship of the petitioner with validity holders. He would submit that the Scrutiny Committee issued show cause notices to the validity holders, hence they refused to support the claim of the petitioner.

3. The learned Advocate for the petitioner submits that there are pre-constitutional school entries of Kautik Raoji of the year 1911, Bhaga Ragho of 1922, Ramdas Ragho of 1921 and Khandu Raoji of 1920 to support the tribe claim of the petitioner. The entries have greater probative value and clinching. He has vehemently submitted that the Committee has committed patent illegality in discarding the record. It is demonstrated by the learned Advocate from the coloured photocopies placed on record that above entries indicate caste as Malhar Koli.

4. The learned Advocate for the petitioner has referred to the orders passed in Writ Petition No.3248/2007 in the matter of Vijay

Pralhad Baviskar which is at Exhibit-F. Vijay was issued validity certificate. Vijay's name figures in the genealogy at page no.63. It is submitted that on the ground of parity, the petitioner is entitled to validity certificate.

5. The learned AGP has invited our attention to old entries of the school record of Kautik, Bhaga, Ramdas, Keshav indicating caste as Koli. According to him, contrary entries were duly verified during the vigilance enquiry and therefore the caste claim of the petitioner is rightly rejected. The revenue entry of Narayan is of no help. According to him, High Court did not consider the older record than the record which is dealt with in paragraph no.4 of the order in the case of Vijay Pralhad Baviskar.

6. The learned AGP has placed on record the original papers of validity holders Parikshit, Hemangini and the petitioner.

7. We have considered the rival submissions of the parties. The genealogy which is at no.63 indicates that Vijay, Parikshit and Hemangini are the paternal side relatives to whom the validity certificates are issued. There is no dispute about the relationship of the persons figuring in the genealogy.

8. It is a matter of record that the High Court has granted validity certificate in the matter of Vijay Pralhad Baviskar Vs. State of Maharashtra in Writ Petition No.3248/2007. The 7/12 extracts of land survey no.88 also corroborate the relationship proposed by the petitioner.

9. The learned Advocate for the petitioner has placed on record the following old record of pre-constitutional period.

Sr.No.	Name	Caste	Nature of Document	Year
1	Kautik Raoji	Malhar Koli	School leaving/register	1911
2	Bhaga Ragho	Malhar Koli	Admission register	1922
3	Ramdas Ragho	Malhar Koli	Admission register	1921
4	Khandu Raoji	Malhar Koli	Admission register	1920

10. The learned AGP has drawn our attention to following pre-constitutional entries verified during vigilance enquiry.

Sr.No.	Name	Caste	Nature of Document	Year
1	Kautik Raoji	Koli	Admission register	1911
2	Raoji	Koli	Admission register	1911
3	Bhaga Ragho	Koli	Admission register	1916
4	Ramdas Ragho	Koli	Admission register	1919

11. The learned AGP would submit that the above referred school record was duly verified during the vigilance enquiry. A vigilance enquiry report is at page no.65. In respect of school entry of Kautik Raoji, it is mentioned that the date of admission is 01.11.1911. The original record appears to be in Modi script. The original record was recovered from the concerned school and referred for the translation. It is translated into Marathi. It is stated at page no.65 specifically that the caste of Kautik is Koli, that of Raoji is Koli. We have seen the correspondence between the translator and the vigilance officer. Therefore, the oldest entry on record is of Kautik Raoji and caste is shown to be Koli. This oldest entry is clinching. It is secured by following due procedure of law. It has a greater probative value and this entry will prevail over all other entries sought to be relied upon by the petitioner.

12. Pertinently, the petitioner has placed on record the coloured photocopies of the school record of Kautik Raoji, indicating caste as Malhar Koli. The date of admission is 01.11.1911. Simultaneously, translated school record of the same person denotes caste Koli and the date of admission as 01.11.1911. The translated copies are reliable. When the record relied upon by the petitioner is pitted with the record collected during vigilance enquiry, we find that Kautik Raoji is shown to be Koli in the record of 1911.

13. The vigilance enquiry refers to old entries of Bhaga Ragho and Ramdas Ragho indicating caste as Koli which are of the year 1916 and 1919. We find that the reliable old record shows caste of the forefathers of the petitioner as Koli. It reveals that the petitioner has misled the Committee by showing caste of Kautik Raoji as Malhar Koli. In that view of the matter, we find that it is not a fit case to exercise our discretionary jurisdiction.

14. The oldest entry of Kautik and Khandu of the year 1905 and 1911 show caste as Koli. We are bound by the law laid down by the Supreme Court in the matter of **Anand Versus Committee for Scrutiny and Verification of Tribe Claims and Others**, reported in (2012) 1 SCC 113. Therefore, the petitioner cannot get any assistance of the school record sought to be relied upon by her, though that is of pre-constitutional period.

15. The learned Advocate for the petitioner has relied upon the order of the High Court in the matter of Vijay (supra). In paragraph

no.4 of that order, reference was made to the entries of 1917 and 1921 to support the claim of then petitioner. However the oldest verified entries of 1905 and 1911 secured after due vigilance enquiry and through translation of the documents were not considered. The oldest record showing contrary entry is left out. We, therefore, have our reservation for relying upon the order of the High Court.

16. We find substance in the submissions of the learned AGP that there is a consistent record to show caste as Koli. Considering the probative value of the contrary entries, we are not prepared to extend the benefit of parity to the petitioner, though there are validity certificates issued in the family. We find that the validity certificates are issued contrary to the material on record may be because it was discovered at a later point. They would not enure to the benefit to the petitioner.

17. We find that the Scrutiny Committee has reached a plausible conclusion on the basis of material on record. There are no sufficient grounds to cause interference in the writ jurisdiction. We find that no case is made out by the petitioner. Hence the writ petition is dismissed.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]