

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

75 WRIT PETITION NO.747 OF 2023

NIKHIL RAMKRUSHAN WARDEKAR
VERSUS
STATE OF MAHARASHTRA THROUGH SECRETARY AND OTHERS

...
Advocate for Petitioner : Mr. Shinde Digambar B
AGP for Respondents/State : Mr. S.G. Sangle
...

**CORAM : RAVINDRA V. GHUGE &
SANJAY A. DESHMUKH, JJ.**
DATE : 25th January, 2023

PC. :-

1. The proposed amendment is allowed. Amendment be carried out.

The extensive family tree tendered today as page no.33-A, is taken on record.

2. We have considered the submissions of the learned advocates for the respective sides and with their assistance, we have gone through the petition paper book. We have perused the extensive family tree placed before us which was not placed before the committee anytime before. Five members of the family are said to have been granted validity certificates. One of them is the biological brother of the petitioner. At the same time, one blood relative namely Liladhar s/o Jagannath has suffered invalidation. Moreover, those who have received validity certificates and whom the petitioner claims to be related to him, do not find a place in the family tree that was tendered to the

committee. In short, the validity holders now relied upon by the petitioner, except the biological brother Ajay, are not established to be blood relatives of the petitioner. The Petitioner expects the High Court to consider his relationship with such validity holders. We are of the view that we cannot step into the shoes of the committee and permit the claim of the petitioner of being related to the several validity holders, to be established before us. It is the duty cast upon the committee to find out as to whether the validity holders are the blood relatives of the petitioner. If it is so established, the law laid down in **Apporva Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No.1 and others, 2010 (6) Mh. L.J. 401**, would be applicable.

3. It is only the petitioner who can blame himself for having tendered a skeletal family tree comprising of only his father, brother and grandfather.

4. In view of the above, we deem it appropriate to remand the matter to the scrutiny committee and enable the petitioner to establish that those validity holders mentioned in the family tree that is now placed before us at page no. 33-A, are his blood relatives from the paternal. Naturally, if it is so established, the petitioner's case would rest on **Apporva Vinay Nichale** (supra).

5. In view of the above, this petition is partly allowed. The impugned order dated 14.06.2022 is quashed and set aside. The proceedings bearing no.

4/513/Ser/072018/111750 stand remitted to the competent scrutiny committee at Aurangabad.

6. The petitioner shall tender the complete family tree, which is now placed before us, along with an affidavit truthfully declaring his relations with the validity holders as well as invalidated candidates, as is indicated from such family tree. The committee shall verify the claim of the petitioner and in the event several validity holders are found to be the blood relatives of the petitioner on the paternal side, the committee would be expected to consider the law down in the **Apporva Vinay Nichale** (supra) and arrive at a conclusion with reasons.

7. Since we have concluded that the petitioner has not placed the extensive family tree before the committee and needs to blame himself for inviting an order of rejection, he would continue to remain on the supernumerary post which is presently occupied. Needless to state, the employer shall not terminate his services until the committee decides his claim.

8. We expect the committee to follow the due procedure laid down in law and deliver an order on the claim of the petitioner on or before 31.07.2023.

[SANJAY A. DESHMUKH, J.]

[RAVINDRA V. GHUGE, J.]