

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10826 OF 2023

Vaishnavi D/o Jitendra Ghoti

.. Petitioner

Versus

1] The State of Maharashtra,
Department of Tribal Development,
Mantralaya, Mumbai – 32
Through its Secretary

2] The Scheduled Tribe Certificate Scrutiny
Committee, Aurangabad office at Aurangabad
Through its Member Secretary

.. Respondents

...
Advocate for petitioner : Mr. Mahesh S. Deshmukh h/f. Mr. Vivek U. Jadhav
Addl.GP for the respondent – State : Mr. S.B. Yawalkar
...

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

DATE : 26 SEPTEMBER 2023

ORDER (MANGESH S. PATIL, J.) :

The petitioner is challenging the order of the scrutiny committee whereby the committee has confiscated and cancelled her certificate of Naikda scheduled tribe.

2. The learned advocate for the petitioner Mr. Deshmukh would submit that the order is perverse and arbitrary. The committee has ignored the consistent school record of the petitioner and her blood relations wherein they have been described as Naikda. The contrary entries being relied on by the committee to discard the claim have been duly explained by the petitioner in her reply to the vigilance report. It is

due to failure of school authorities and the error committed by them that such contrary entries have appeared. The committee has failed to appreciate the fact that all these contrary entries are of old time when for want of literacy, the castes were recorded as "Ma Vanjari" in the school record as well as the revenue record for which the petitioner cannot be blamed.

3. Mr. Deshmukh would further submit that irrespective of the documentary evidence, the petitioner's blood relation - Prakash Kartarsing Ghoti possesses a certificate of validity which was issued by following the due process of law and in view of the decision in the matter of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others; 2023 SCC Online SC 326***, the petitioner is entitled to have a certificate of validity based on his validity.

4. Mr. Deshmukh would then, in the alternative, submit that though Prakash had not come forward to file any affidavit in petitioner's support when the enquiry was going on before the scrutiny committee but subsequently, he has filed an affidavit dated 22.08.2023 in her support which is filed in the writ petition and the petitioner may be granted an opportunity to go before the committee again and satisfy it about her blood relation with Prakash.

5. Mr. Yawalkar, the learned AGP supports the order. He submits that the committee has meticulously referred to and pointed

out consistent pre-constitutional revenue record to substantiate its conclusion that the petitioner's paternal ancestors for years were regarded as "Ma Vanjari" or "Mathure Vanjari" or "Vanjari Naik". This contrary revenue as well as the school record collected during the vigilance enquiry has not been properly explained by the petitioner in her reply much less denying that it is the record of her ancestors related to her by blood. For want of such demur, no exception can be taken to the inference drawn by the committee holding that the family does not belong to Naikda scheduled tribe. He would submit that even if the petitioner is now seeking to derive the benefit of Prakash's validity, enormous material collected by the vigilance and referred to in the impugned order, is sufficient to refuse to extend the benefit of his validity.

6. Mr. Yawalkar would then submit that the petitioner is now seeking to derive the benefit of Prakash's validity as an afterthought. She had never sought to rely upon any such validity and it is only after rejection of the proposal by the impugned order that she is able to procure his affidavit in support of her claim. He would point out that in his own matter, Prakash's statement was recorded wherein he had expressly mentioned that his great grandfather Sangati was a single child and had no real brother or sister whereas the petitioner now claims and even she has come forward showing a genealogy wherein petitioner's great great grandfather Birsing is being shown to be brother

of Sangati. He would point out that even in his vigilance enquiry, a genealogy was prepared under his signature wherein his great grandfather Sangati was shown to be the only son of his father Chintaman. He would, therefore, submit that such an attempt to resort to the genealogy which is inconsistent with Prakash's stand when he was claiming validity, cannot be allowed to be used being an afterthought.

7. Mr. Yawalkar would submit that even otherwise the contrary evidence pointed out by the committee which is pre-presidential order record is sufficient to discard the petitioner's claim on merits. He would, therefore, strongly oppose even the request for remand.

8. We have carefully considered the rival submissions and perused the papers.

9. During the vigilance enquiry, contrary entries of the pre-presidential order could be collected in the form of revenue record of the petitioner's ancestors. Pertinently, the petitioner in reply to the vigilance report has not denied that this record was of her paternal side ancestors. She merely tried to explain it by saying that it is only because of the illiteracy in the family that the contrary entries had appeared. Meaning thereby that the petitioner has not been disputing either the genuineness of such contrary record or had not denied that this is the record of her paternal side ancestors.

10. This contrary school and revenue record collated by the vigilance officer and reflected in the impugned order, is as under:-

School record :

Sr. No.	Admission Number	Name of the student	Relationship with the applicant	Record of caste	Admission Date
6	2	Bhurabai Sabru Birsing	Cousin Grandmother	Mathure Vanjari	12/06/1953
5	45	Agyansing Sabrusing Birsing	Cousin Grandfather	Ma. Vanjari	21/04/1955
4	90	Naik Jagannath Sabru Birsing Naik	Grandfather	Ma. Vanjari	11/07/1958
11	118	Magan Ramdhan Birsing	Cousin Grandfather	Mathure Vanjari	06/07/1961
10	172	Naik Motising Ramdhan Birasing Naik	Cousin Grandfather	Ma. Vanjari	01/07/1964
9	12 A	Sandrabai Ramdhan Birsing	Cousin Grandmother	Ma. Va.	14/07/1964
8	200	Shantabai Ratansing Birsing	Cousin Grandmother	Ma. Vanjari	01/07/1965
7	216	Naik Banabai Ramdhan Birsing Naik	Cousin Grandmother	Ma. Vanjari	05/07/1966
1	190 A	Naik Tarabai Sabru Birsing Naik	Cousin Grandmother	Ma. Banjari	15/07/1967
13	249	Naik Divalsing Ramdhan Birsing Na.	Cousin Grandfather	Ma. Banjari	02/07/1968
3	260	Naik Guruprasad Sabru Birsingh Naik	Cousin Grandfather	Ma. Ba.	16/07/1968
2	297	Shantaram Sabru Sabru Birsing	Cousin Grandfather	Ma. Vanjari	09/07/1971
14	313	Shakuntala Atmaram Shakuntala Birsing Ramdhan Birsingh	Cousin Grandmother	Ma. Vanjari	10/07/1971

Revenue record :

Sr. No.	Revenue Evidence	Survey no.	Name of Document holder	Relationship with applicant	Record of Caste
1	Revenue Record 1938-39	34	Birsa Chintaman Ma-Vanjari	Great Great Grandfather	Ma. Vanjari
2	Revenue Record 1938-39	35	Birsa Chintaman ma. Vanjari	Great Great Grandfather	Ma. Vanjari
3	Revenue Record 1938-39	--	Kanhu Chandu Ma - Vanjari Unghya Pema Sardar Pema, Ramchandra Ganu Ma. Vanjari Charmya Pema, Sardar Pema Agyan Jyotising, Atmaram Sarup Sing Atmaram (Ma.Va.)	--	--
4	Revenue Record 1938-39	15	Birsa Chintaman Ma-Vanjari	Great Great Grandfather	Ma. Vanjari
5	Revenue Record 1940-41	2/2	1) Birsa Chintaman Ma- Vanjari 2) Kanhu Chandu Ma. Vanjari	Great Great Grandfather	Ma. Vanjari

			3) Budha Pema, Charmya Pema, Sardar Pema Agyan 4) Ramchandra Ganu Ma.Va.		
6	Revenue Record 1940-41	4/1	Budha Pema, Charmya Pema, Sardar Pema Agyan Ma Vanjari	--	--
7	Revenue Record 1940-41	15	Birsa Chintaman Ma-Vanjari	Great Great Grandfather	--
8	Revenue Record 1940-41	34	Birsa Chintaman Ma-Vanjari	Great Great Grandfather	Ma. Vanjari
9	Revenue Record 1940-41	35	Birsa Chintaman Ma-Vanjari	Great Great Grandfather	Ma. Vanjari
10	Revenue Record 1940-41	37/1	Mangya Dalpat Ma- Vanjari	--	--
11	Revenue Record 1956-57	8/1/A	Sabru Birsa Ma-Vanjari	Great Grandfather	Ma. Vanjari
12	Revenue Record 1956-57	8/2	Ramdas Rupa Ma- Vanjari	--	--
13	Revenue Record 1956-57	2/1	Birsa Chintaman Ma- Vanjari	Great Great Grandfather	Ma. Vanjari
14	Revenue Record 1956-57	--	1. Birsa Chintaman Ma.Ban. 2. Laxman Kanhu Ma.Banjari 3. Amrambakas Kanhu Ma.Van. 4.Charmya Pema Ma.Vanjari 5. Aanabh Mard Ramchandra Ma. Van.	Great Great Greatfather	Ma. Vanjari
15	Revenue Record 1956-57	15	Aatmaram Birasa Ma.Vanjari	--	--
16	Revenue Record 1956-57	15/1	Birasa Chintaman Ma. Vanjari	Great Grandfather	
17	Revenue Record 1956-57	15/2	Ratansing Birsa Ma.Vanjari	--	
18	Revenue Record 1956-57	16/3	Sabru Birsa Ma. Vanjari	Great Grandfather	Ma. Vanjari
19	Revenue Record 1956-57	28/1	Badatsing Lalchand Ma.Vanjari	--	
20	Revenue Record 1956-57	35	Sabru Birsa Ma.Vanjari	Great Grandfather	Ma. Vanjari

Sr. No.	Serial number	Sub division	Name of document holder	Relationship with the applicant	Remark (Below Name)
1	27	1	Sabru Birsa Vanjari Naik	Great Grandfather	Vanjari Naik
2	27	2	Bhaidas Raising Vanjari	--	Vanjari
3	27	3	Sarup Sing Atmaram Vanjari	--	Vanjari
4	16	1	6) Magan Sing Ramdhan 7) Motising Ramdhan 8) Bapu Ramdhan Vanjari 9) Chhaganlal Atmaram 10) Tara Sing Atmaram Vanjari	--	Vanjari
5	16	2	Ratan Sing Birsa Vanjari Ghoti	--	Vanjari Ghoti
6	16	2(A)	Bibha Pralap Vanjari	--	Vanjari
7	--	3	Hardas Dawlat Vanjari		Vanjari

8	2	1	Birsa Chintaman Ma-Vanjari	Great Great Grandfather	Ma. Vanjari
9	--	--	1) Bhika Charmu, Tukaram Charmu, Sakharam Charmu Gangabai Charmu Mangalabai Charmu Ma. Vanjari 2) Shantabai Vanjari 3) Gopabai W/o Dhansing Vanjari	--	Ma.Vanjari and Vanjari
10	--	--	Anabhi Mard Ramchandra Man.Ban.	--	Man.Ban.
11	--	2	Birsa Chintaman Vanjari Naik	Great Great Grandfather	Vanjari Naik
12	34	--	Ramdhan Birsa Vanjari Naik	--	Vanjari Naik
13	35	1	Motising Ramdhan Ramdhan Birsing Vanjari Naik	--	Vanjari Naik
14	--	2	Sabru Birsa Vanjari Naik	Great Grandfather	Vanjari Naik

11. This school and the revenue record of the petitioner's ancestors is sufficient to demonstrate that all these entries are "Ma. Vanjari", "Vanjari Naik" and "Ma Banjari" and inconsistent with the petitioner's claim of belonging to Naikda scheduled tribe.

12. As against this, favourable record wherein the petitioner and her blood relations have been described as Naikda in the school record are of recent origin, between the years 1981 and 2020.

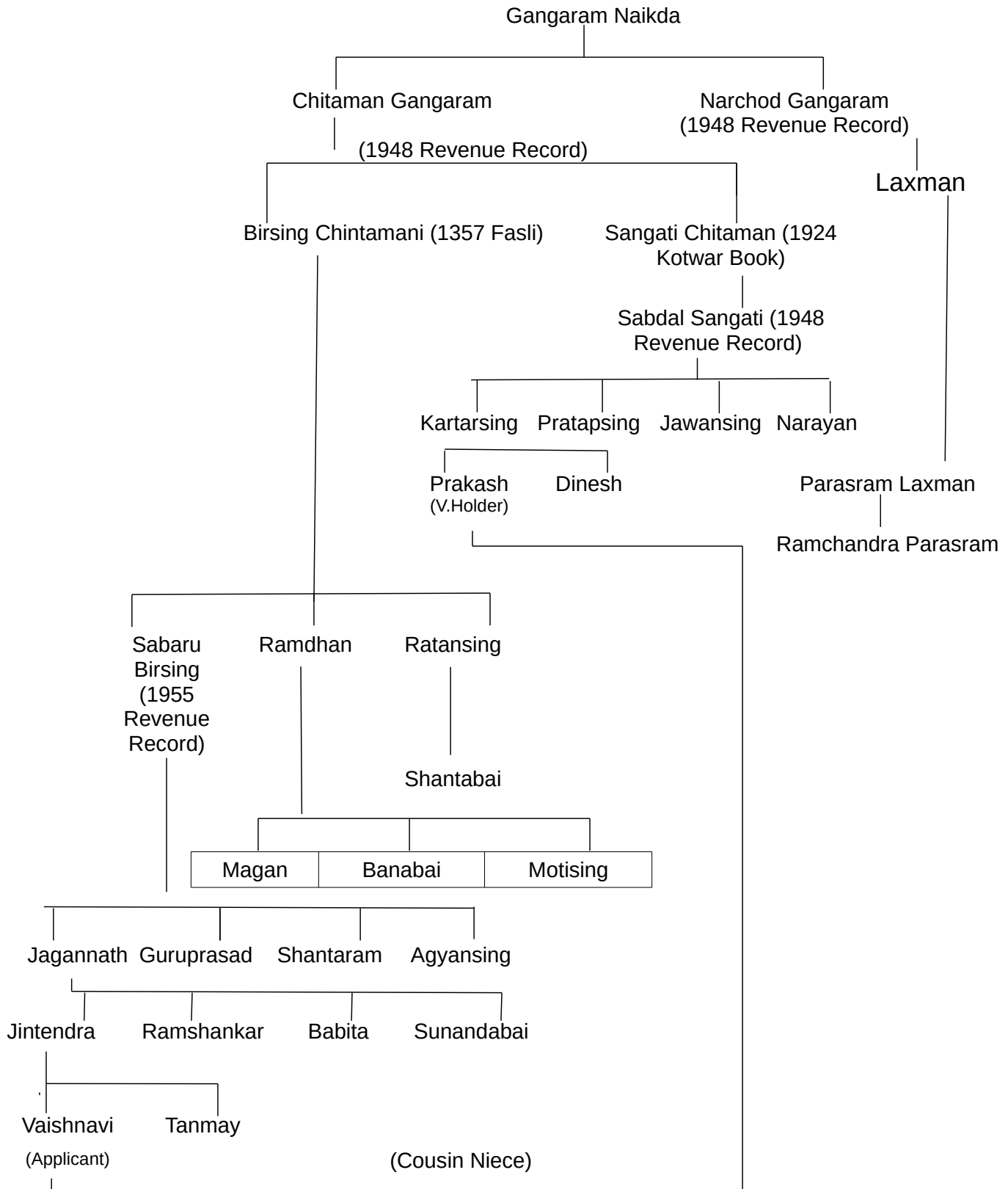
13. True it is that there are three records; one in respect of birth record of Sabru Birsai Naikda stated to be petitioner's great grandfather wherein, in the year 1952, he was described as Naikda and two revenue records of Sabru and one Gangubai of the year 1966 wherein also they have been described as Naikda. However, if one follows the principle laid down in the matter of **Anand Dhananjay Nalawade Vs. State of Maharashtra; 2014 (4) Mh.L.J. 77**, the consistent contrary entries of the period prior to 1952 pointed out

herein-above are for the period between 1928 to 1952 and would have a greater probative value.

14. Consequently, we find no error in the conclusion arrived at by the committee based on such enormous contrary record. The observations and the conclusions are clearly plausible one and by no stretch of imagination can be branded as perverse or arbitrary.

15. This leaves us with the attempt of the petitioner to derive the benefit of the validity possessed by one Prakash Kartarsing Ghoti. No explanation is coming forth and sought to be assigned as to why the petitioner could not demonstrate such a validity possessed by him for deriving its benefit. A lame excuse has been given in the petition in a vague manner saying that due to lack of information, she could not do so. If he is a person from her blood relation and when it is a matter of social status, one cannot appreciate the reasoning that for want of knowledge of his validity, she could not produce it.

16. Besides, the petitioner is trying to demonstrate her relation with Prakash by relying upon his affidavit filed in the petition together with the genealogy which reads as under :-



17. However, as has been rightly pointed out by Mr. Yawalkar, in the vigilance enquiry, in his own matter, Prakash had expressly stated that his great grandfather Sangati Chintaman Dhoti did not have a real brother or sister.

18. Pertinently, even the genealogy prepared in that enquiry under his signature demonstrates that his great grandfather Sangati was the loan child of Chintaman Gangaram. The petitioner claims to be the great great granddaughter of one Birsing stated to be another son of Chintaman. The affidavit of Prakash is conspicuously silent and does not seek to offer any explanation regarding such genealogy and his statement that his great grandfather Sangati was the lone child of his father - Chintamani. Even his affidavit is silent and does not make any attempt to substantiate the petitioner's version that for want of her knowledge she could not rely upon his validity.

19. In view of such state of affairs, even we are not inclined to concede to the request of the petitioner's learned advocate for remand.

20. We are of firm view that this course being sought by the petitioner is nothing but an abuse of the process and an attempt at manipulation.

21. Besides, even if for the sake of arguments it is assumed that the validity holder - Prakash is a blood relation of the petitioner

from the paternal side, still, in the teeth of the voluminous contrary record which has a greater probative value as discussed herein-above, in our considered view, on merits the petitioner's claim is liable to be dismissed as has been done by the scrutiny committee.

22. The writ petition is dismissed.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/