

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

WRIT PETITION NO. 11154 OF 2023

Gaurav s/o Radhakisan Gandhale,
Age 20 years, Occ. Education,
R/o. Choramba, Tq. Dharur,
Dist. Beed

... **Petitioner**

VERSUS

1) The State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai.

2) The Scheduled Tribe Caste Certificate
Verification Committee Aurangabad,
Through its Dy. Director (R),
District Aurangabad

... **Respondents**

...

Advocate for the Petitioner : Mr. S.M. Vibhute
A.G.P. for the Respondents/State : Mr. S.G. Sangale

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

DATE : 07.09.2023

PER COURT :

Heard.

2. The petitioner is challenging the order of the respondent-scrutiny committee confiscating and cancelling his certificate of 'Koli Mahadev' scheduled tribe.

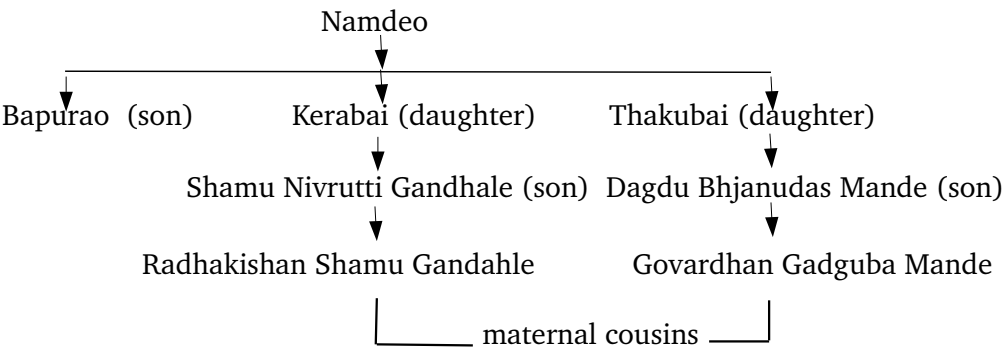
3. Considering the urgency inasmuch as the petitioner is seeking admission in the ongoing admission process, we have taken up this matter for final disposal at the joint request.

4. The learned advocate for the petitioner submits that the petitioner’s father possesses a certificate of validity. Even his cousin Shrimant Bibhishan Gandhale has been granted certificate of validity pursuant to the order of this Court in Writ Petition No 2029/2022. The petitioner is ready to face the consequences depending upon the final outcome of the matters which the committee has intended to reopen.

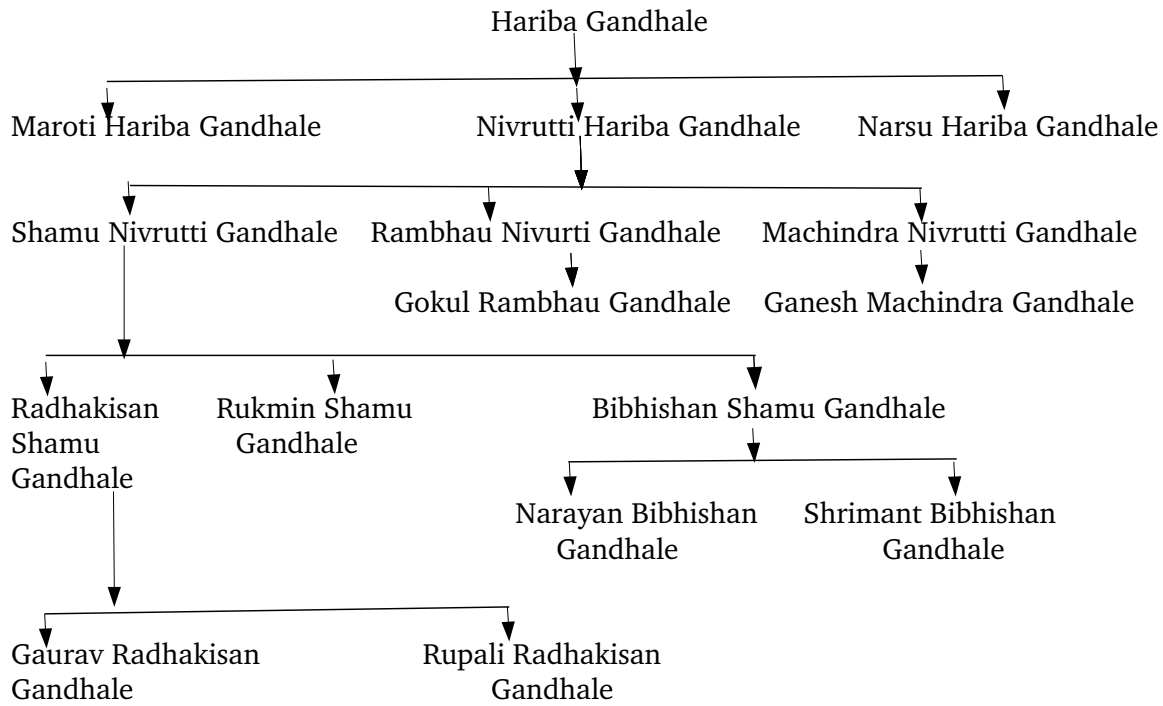
5. The learned A.G.P would strongly oppose the petition. He would submit that the petitioner’s father has obtained a certificate of validity by resorting to fraud. He had given a different genealogy which is reproduced by the committee in the impugned order which does not tally with the genealogy furnished in the petitioner’s matter. There is manipulated school record. The revenue record clearly demonstrated that the petitioner’s family is ‘Kachari’ which is in the list of other backward class. There are contrary entries of ‘Koli’. Manipulated school record of ‘Koli Mahadev’. The revenue record described petitioner’s ancestors as ‘Kachari’ and the petitioner is not entitled to even derive the benefit of having a conditional validity.

6. We have carefully gone through the papers. It does appear at the first blush that the petitioner’s father Radhakisan has given a completely different genealogy, which is reproduced in the impugned order which does not tally with the genealogy being relied upon in the petitioner’s matter which is also reproduced in the impugned order.

Genealogy given by Radhakishan



Genealogy in the petitioner's matter



7. A careful consideration of both these genealogies would reveal that obviously those are different but the difference is on account of the fact that the genealogy furnished by Radhakisan in his matter demonstrate his relation through his grand mother Kerabai who was the daughter of Tukaram. He did not show the genealogy of the paternal side whereas the other genealogy furnished in the petitioner's matter is a genealogy of the family from the paternal side starting from the common ancestor Hariba who was survived by three sons viz. Maruti, Nivrutti and Narsu. The petitioner is the great grand son of Nivrutti and is relying upon the validity of his father Radhakisan. Therefore, it cannot be said that the petitioner's father by furnishing incorrect genealogy has obtained the certificate of validity. The committee could have easily noticed that he was furnishing the genealogy through his grand mother (father's mother), it could have easily noticed this fact. Be that as it may, the observations and the conclusions in the present order that it was an attempt at fraud by furnishing incorrect genealogy does not appeal to reason and is clearly perverse.

8. Admittedly, petitioner's real cousin Shrimant Bibhishan Gandhale has

been granted certificate of validity pursuant to the order of this Court in Writ Petition No. 2029/2022 albeit it is a conditional one. If the petitioner is ready to run the risk of facing the consequence as contemplated in the matter of **Shweta Balaji Isankar Vs. State of Maharashtra and others (Writ Petition No. 6320 of 2017)**, we find no hesitation in allowing the petition by quashing and setting aside the impugned order.

9. The Writ Petition is partly allowed.
10. The impugned judgment and order is quashed and set aside.
11. The respondent/scrutiny committee shall immediately issue certificate of validity to the petitioner as belonging to 'Koli Mahadev' scheduled tribe, which shall be subject to final outcome of the matters which the committee has reopened of the validity holders.
12. The learned A.G.P. shall immediately communicate this order to the Scrutiny Committee.
13. The petitioner shall not be entitled to claim equities.
14. The writ petition is disposed of.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

mkd/-