

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11428 OF 2023

Sankalp S/o Sudhakar Salunke

.. 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 Division,
Aurangabad, Tq. and Dist. Aurangabad
Through its Member Secretary

.. Respondents

...
Advocate for petitioner : Mr. Sushant C. Yeramwar
AGP for the respondent – State : Mr. S.B. Yawalkar
...

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

DATE : 13 SEPTEMBER 2023

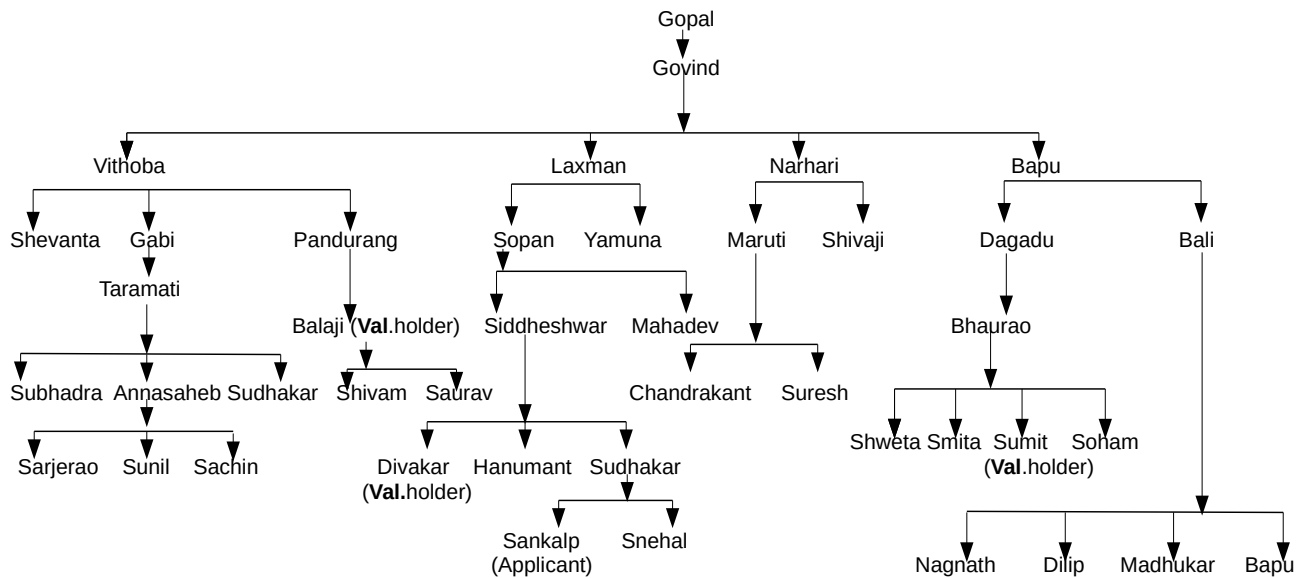
ORDER (MANGESH S. PATIL, J.) :

The petitioner who claims to be belonging to Thakar scheduled tribe is challenging the order of the scrutiny committee passed in a proceeding under section 7 of the Maharashtra Act No. XXIII of 2001 thereby confiscating and cancelling his tribe certificate.

2. In view of the urgency inasmuch as the petitioner has appeared for MHT-CET-2023 examination and is desirous of getting admission to

direct second year of degree course in engineering in the current admission process, the matter has been heard finally at the stage of admission.

3. The learned advocate for the petitioner refers to following genealogy :-



4. The learned advocate for the petitioner submits that the petitioner's real uncle - Divakar is the validity holder and so are some distant relations from the paternal side namely Balaji Pandurang and his two sons Shivam and Saurav who have been granted certificate of validity pursuant to the order of this Court.

5. He would submit that the petitioners are entitled to have the certificates of validity based on all these validities in the family. They are ready to suffer the consequences as contemplated in the matter of **Shweta Balaji Isankar Vs. State of Maharashtra and others (writ petition no. 6320 of 2017)**. He would submit that even petitioner's distant relation -

Sumit Bhaurao Salunke possesses certificate of validity pursuant to the order of this Court. Even if the committee intends to undertake re-scrutiny of the validity holders claims, till the time those are not confiscated and cancelled, the petitioners cannot be deprived of having the benefit.

6. The learned advocate would further submit that the committee has reproduced the record being relied on by the petitioner wherein his family members have been consistently shown to be Thakar. Even there is a revenue record showing his cousin great great grandfather to be Thakar. Ignoring all such consistent entries, the committee has referred to certain entries which according to it are contrary being of Maratha. He would submit that the approach of the committee is perverse and arbitrary and the order be quashed and set aside.

7. The learned AGP supports the order. He submits that the committee has pointed out as to how there are contrary entries wherein petitioners' blood relations have been discarded as Maratha. The decision taken by the committee is a plausible one.

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

9. As is reproduced by the committee the chart regarding school and revenue entries, except such stray entries wherein petitioners' paternal aunts have been described as Maratha, the record consistently shows the

petitioner's relations to be Thakar. The revenue record in-fact describe the petitioner's ancestors as Vithoba Govind Thakar who happens to be the great great grandfather of the petitioner.

10. Besides, as has been pointed out earlier, there are validities in the family. Even this Court has directed certificates of validities to be issued to petitioners' blood relations from the paternal side namely Sumit Bhaurao Salunke, Saurav Balaji Salunke and Shivam Balaji Salunke. Though the committee has alleged about validity holders Divekar Siddheshwar and Balaji Pandurang having practised fraud and has expressed its intention to undertake fresh scrutiny of their claims, we cannot make any observation in that regard for the simple reason that those two persons are not before us and the issue would be directly and substantially under consideration in the matter which it has intended to re-open.

11. The committee has not conspicuously observed about no procedure having been followed while granting certificate of validity to these two validity holders.

12. The committee has thereafter questioned the composition of the then committee. In our considered view, a successor committee cannot question such composition more so when according to rule 9(3) of the Maharashtra Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special

Backward Category (Regulation of Issuance and Verification of) Caste Certificate Rules, 2003, the decision of the committee which comprises of three members can be by majority. In this view of the matter when there was no dispute about the eligibility of the other two members consequently, this ground will not be sustainable.

13. In the result, the following order :-

(i) The writ petition is partly allowed. The impugned order dated 08.09.2023 is quashed and set aside.

(ii) The Scrutiny Committee shall immediately issue tribe validity certificate to the petitioner as belonging to "Thakar" scheduled tribe, which shall be subject to the decision to be taken by the Committee in the reopened matters.

(iii) The petitioner shall not be entitled to claim equities.

(iv) The learned AGP in presence of the law officer of the Scrutiny Committee shall immediately inform the decision to the Committee.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/