

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11735 OF 2023

Chetna Nilkanth Patil,
Age 19 years, Occ. Student,
R/o. Dahigaon Sant, Tq. Pachora,
Dist. Jalgaon.

... **Petitioner**

VERSUS

1) The State of Maharashtra
Through its Secretary
Social Welfare Department,
Mantralaya, Mumbai

2) The District Caste Scrutiny Committee
Jalgaon, District Jalgaon

... **Respondents**

...
Advocate for the Petitioner : Mr. Bayas Anandsingh Sangramsingh
A.G.P. for the Respondents/State : Mr. S.G. Sangale
...

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

DATE : 20 SEPTEMBER 2023

ORDER (MANGESH S. PATIL, J.) :

Heard. Not on Board. Taken on production Board in view of the urgency inasmuch as the petitioner has been provisionally allotted a college in the second year of the four year degree course in the Engineering and Technology for the academic year 2023-2024 and has to submit the certificate of validity and today is the last date for submitting the certificate of validity.

2. Issue notice for final disposal. Learned AGP waives service for both the respondents.
3. We have heard both the sides finally at the stage of admission.
4. The petitioner is challenging the order of the respondent - scrutiny committee passed in a proceeding under section 6 of the Maharashtra Act No. XXIII of 2001 thereby confiscating and cancelling his certificate of Rajput Bhamta scheduled tribe.
5. The learned advocate for the petitioner submits that the presidential notification in respect of Rajput Bhamta was issued on 19.11.1961. The petitioner's cousin grandfather by name Patil Shivaji Shankarsing's school record of pre-presidential order referred to him as Rajput Bhamta. The committee has referred to couple of older school record of the petitioner's grandfather Namdeo Shankar Mahale and great grandfather - Shankar Mahasing Patil wherein they have been shown to be Rajput. Shivaji Shankarsing Patil who is the cousin grandfather has been granted the certificate of validity. The committee has refused to extend its benefit to her without sound and cogent reasons. Besides there is another validity holder by name Sangram Gokulsing Patil. The committee has refused to extend the benefit

observing that there was no evidence to demonstrate petitioner being the blood relative of both these validity holders.

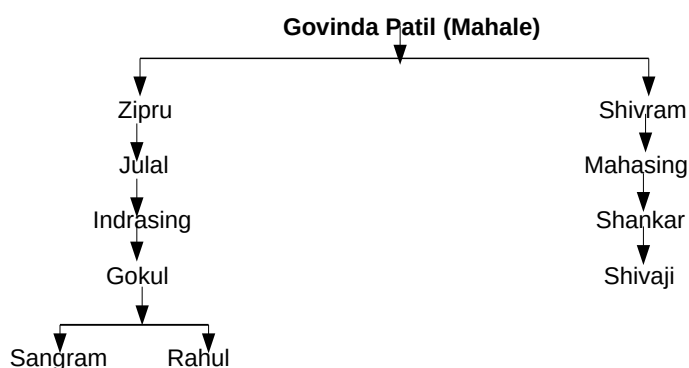
6. The learned AGP supports the order. He submits that the committee has rightly refused to extend the benefit of validity of Shivaji Shankarsing Patil and Sangram Gokulsing Patil as the petitioner failed to substantiate the genealogy. Besides there are at least two older entries of petitioner's grandfather and great grandfather wherein they were shown to be Rajput. The oldest record has been relied by the committee to invalidate the claim.

7. The learned advocate for the petitioner would also point out that the revenue record was before the committee in the form of mutation entry no. 139. On demise of common ancestor Shankar Mahasing Patil who was the great grandfather, the land gat nos. 98, 194-A, 194-B and 238 devolved on his four sons, namely, Yuvraj Shankar Patil, Namdeo Shankar Patil, Tukaram Shankar Patil, Shivaji Shankar Patil and wife Kartarbai Shankar Patil. He submits that the petitioner is the grandson of Namdeo. The committee ought to have considered this revenue record which ex facie substantiates the petitioner being in the blood relation of the validity holder Shivaji Shankar Patil. The committee has not considered this revenue record.

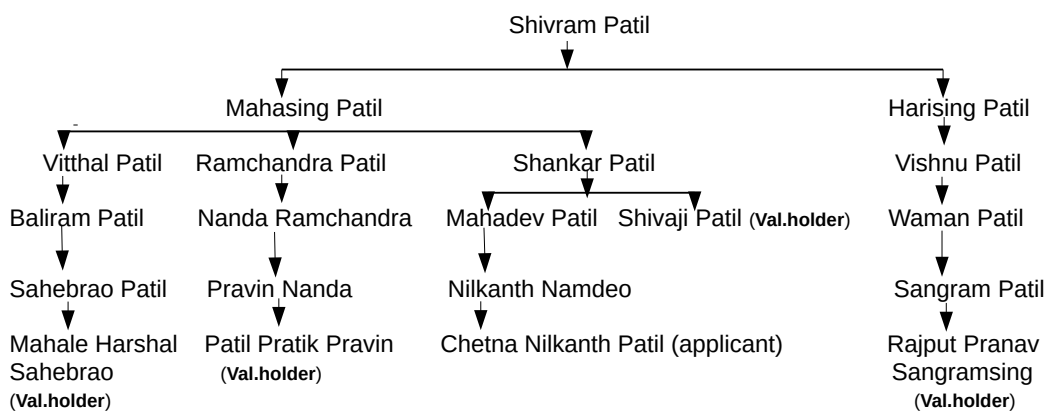
8. We have carefully considered the rival submissions and perused the impugned order.

9. Obviously, since the committee having formed an opinion about the petitioner having failed to demonstrate that she is related to Shivaji Shankar Patil, it has not extended the benefit to the petitioner of his validity.

10. The reason being assigned by the committee for not extending the benefit of Shivaji Shankar Patil's validity is to the effect that Shivaji had given following genealogy :-

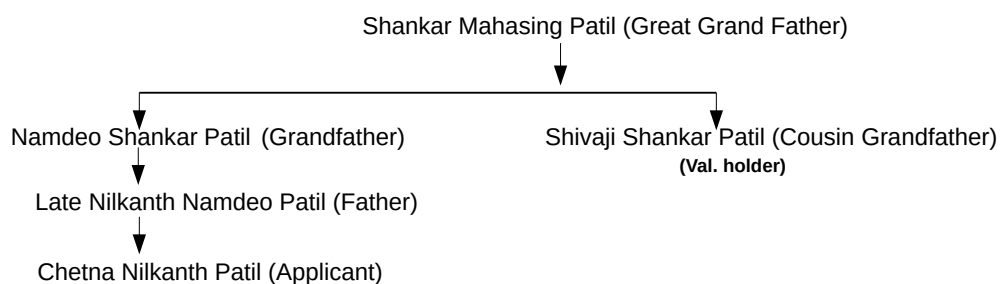


11. The genealogy given by the petitioner is as under :-



12. If one compares both these genealogies, it cannot be said that the genealogy being furnished by the petitioner is not compatible with that was furnished by Shivaji *albeit* the latter could be said to be incomplete one. Both these genealogies uniformly demonstrate that one Shivram Patil was the common ancestor who was survived by son Mahasing who had a son by name Shankar. Validity holder Shivaji and petitioner's grandfather Namdeo are the two sons of Shankar. In the first genealogy furnished by Shivaji, he has not shown Namdeo to be his brother. However, not showing a branch would be an irregularity but cannot be treated as a false genealogy.

13. Besides, the fact that the petitioner has been relying upon the validity of Shivaji is apparent since even vigilance enquiry has been conducted taking into consideration petitioner's such a claim. Again, the very same Shivaji has also filed an affidavit in form 3 as is expected under rule 4(1) of the Rules of 2003 framed under the Maharashtra Act No. XXIII of 2001 in support of petitioner and giving following genealogy.



14. Again, certified copy of mutation entry no. 139 ex facie corroborates the fact that after demise of Shankar Patil, as is mentioned herein-above the lands held by him were mutated in the name of his four sons and widow including the validity holder Shivaji as also petitioner's grandfather Namdeo. If this is so, the approach of the committee and its conclusion that there was not enough material to demonstrate petitioner's blood relationship with the validity holder Shivaji Shankar is clearly perverse and arbitrary.

15. If this is so, when it is not a version of the committee that Shivaji was granted the certificate of validity without following due process of law, the petitioner deserves to be extended the benefit of the validity possessed by him.

16. It appears that, as is mentioned in the impugned order, the committee could not conduct a threadbare enquiry by calling and examining the original file in the matter of Shivaji Shankar Patil who was granted certificate of validity by Dhule committee, in our considered view, if at all the respondent - scrutiny committee intends to and undertakes some fresh enquiry, it may do so. We are making it abundantly clear that we do not intend that the committee should undertake such an enquiry to reassure itself of the certificate granted to Shivaji Shankar. However, since the impugned order mentions that it could not get sufficient time to call for that record from

Dhule committee, we are merely expressing that the committee may if it so desires indulge in further scrutiny. However, as is observed herein-above, we are satisfied that the petitioner stands in the blood relation with the validity holder Shivaji and is entitled to derive the benefit of that validity.

17. In the result, the following order :-

I) The Writ Petition is partly allowed.

II) The impugned order is quashed and set aside.

III) The respondent - scrutiny committee shall immediately issue certificate of validity to the petitioner of 'Rajput Bhamta' Vimutka Jati which shall be subject to the decision of the fresh enquiry to be undertaken by the committee if it so desires in respect of Shivaji's matter.

IV) The petitioner shall not be entitled to claim any equities.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/