

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

WRIT PETITION NO.14379 OF 2021

WITH

CA/15797/2022 IN WP/14379/2021

Naresh s/o Limbadri Biramwar ... PETITIONER

VERSUS

1. The State of Maharashtra
through its Principal Secretary,
Higher and Technical Education Department,
Mantralaya, Mumbai – 32.
 2. The Commissioner & Competent Authority,
Government of Maharashtra,
State Common Entrance Test Cell,
8th Floor, New Excelsior Building,
A.K. Nayak Marg, Fort,
Mumbai – 400 001.
 3. Director of Technical Education,
Maharashtra State, Mumbai
Dhobi Taloco, Chhatrapati Shivaji Terminus,
Area, Fort, Mumbai 400 001.
 4. The Government Polytechnic
Aurangabad, Station Road Aurangabad
through its Principal, Station Road,
Usmanpura, Aurangabad.
Maharashtra 431005.
 5. Deputy Director (Research)
and Member Secretary,
Scheduled Tribe Certificate
Verification Committee,
Near Saint Lawrence High School
Town Centre, CIDCO, Aurangabad,
Dist. Aurangabad.
- ... RESPONDENTS**

WITH

**WRIT PETITION NO.14380 OF 2021
WITH
CA/15796/2022 IN WP/14380/2021**

Shriniwas s/o Limbaji Biramwar ... **PETITIONER**

VERSUS

1. The State of Maharashtra
through its Principal Secretary,
Tribal Development Department,
Mantralaya, Mumbai – 32.
2. The Chief Executive Officer,
Zilla Parishad, Sangali,
District Sangali.
3. The Education Officer (Primary)
Zilla Parishad, Sangali,
District Sangali.
4. Deputy Director (Research)
and Member Secretary,
Scheduled Tribe Certificate
Verification Committee,
Near Saint Lawrence High School
Town Centre, CIDCO, Aurangabad,
Dist. Aurangabad.

... **RESPONDENTS**

**WITH
WRIT PETITION NO.14381 OF 2021
WITH
CA/15798/2022 IN WP/14381/2021**

Minakshi s/o Limbadri Biramwar ... **PETITIONER**

VERSUS

1. The State of Maharashtra,
through its Principal Secretary,
Higher and Technical Education Department,
Mantralaya, Mumbai – 32.
2. Director of Technical Education,
Maharashtra State, Mumbai
3. Dr. Babasaheb Ambedkar Marathwada
University Aurangabad through
its Registrar
4. The Government College of Engineering
Aurangabad, Station Road Aurangabad
through its Principal.
5. Deputy Director (Research)
and Member Secretary,
Scheduled Tribe Certificate

Verification Committee,
Near Saint Lawrence High School
Town Centre, CIDCO, Aurangabad,
Dist. Aurangabad.

... **RESPONDENTS**

...

Advocate for Petitioner/s : Mr. R.B. Dhakane h/f. Mr. Sainath Jayewar
Addl. G.P. for respondent/State : Mr. P.S. Patil

...

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

Reserved on : **25.07.2023**

Pronounced on : **05.09.2023**

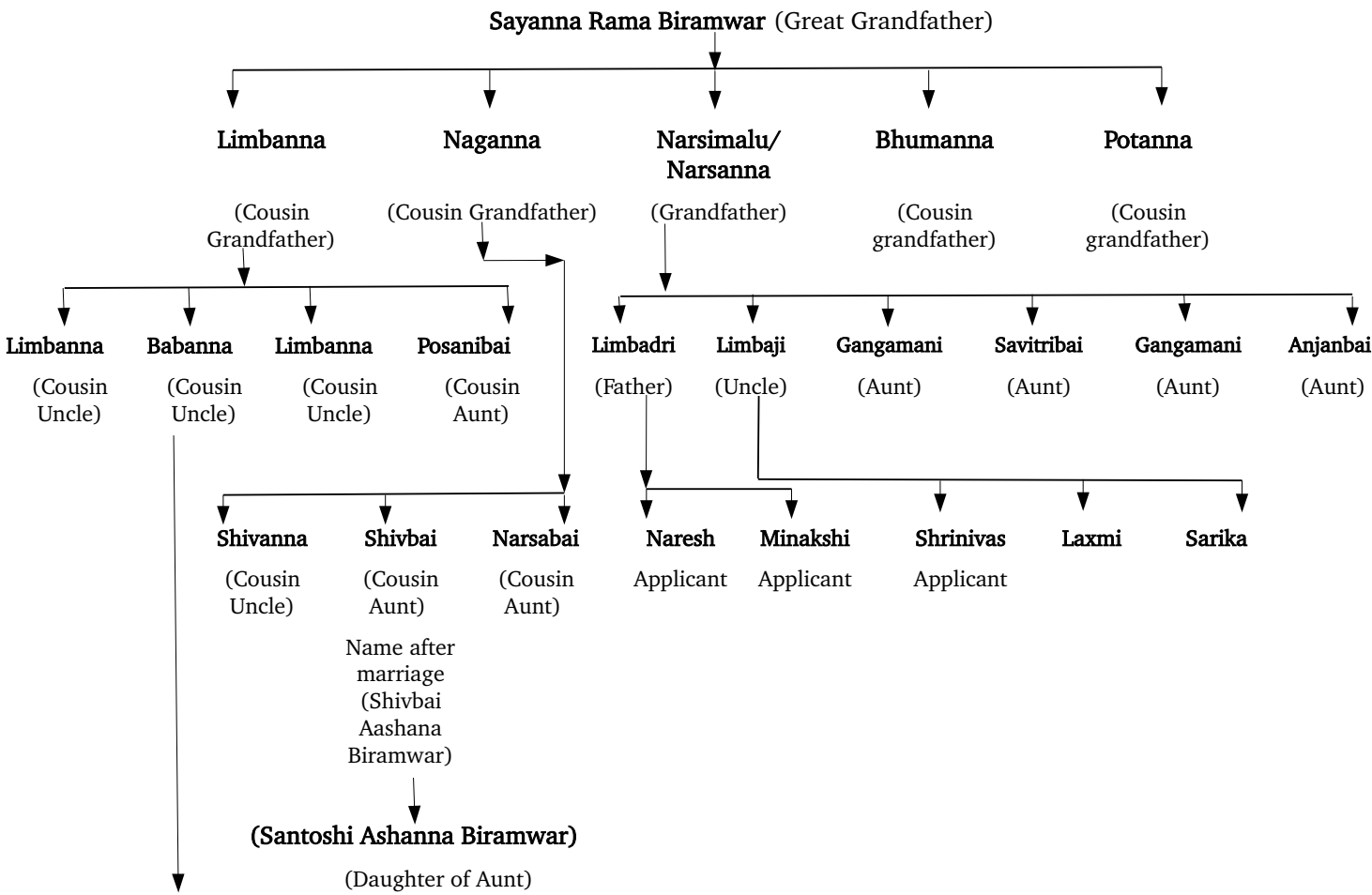
ORDER (MANGESH S. PATIL, J.) :

By of these three separate writ petitions the petitioners are challenging the common order passed by the respondent - Scrutiny Committee confiscating and cancelling their tribe certificates of 'Mannervarlu' scheduled tribe, by resorting to Section 7(1) of the Maharashtra Act No.XXIII of 2001. Hence these petitions are being disposed of by this common order to avoid rigmarole.

2. The petitioners Naresh and Minakshi are the real siblings, whereas, Shriniwas is their first degree cousin, albeit, we have our own doubt regarding petitioner Shriniwas being first degree cousin of Naresh and Minakshi to which we shall come a little later. However, the impugned order itself shows that the Committee had accepted them to be from the same family and related by blood as a reason for passing the common order. Pertinently, even vigilance inquiry under Rule 12 of the Maharashtra Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category

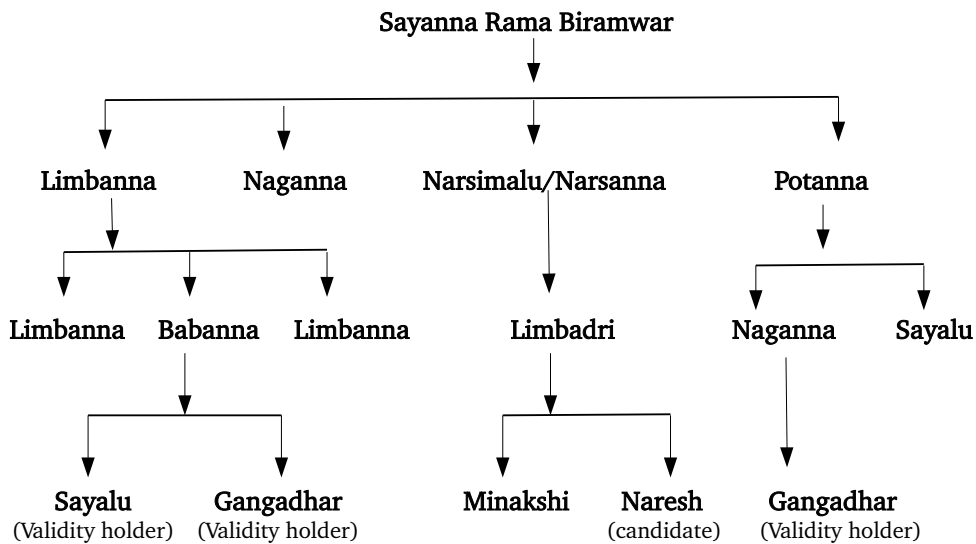
(Regulation of Issuance and Verification of) Caste Certificate Rules, 2003 has been conducted in common.

3. The petitioners have given following genealogy :

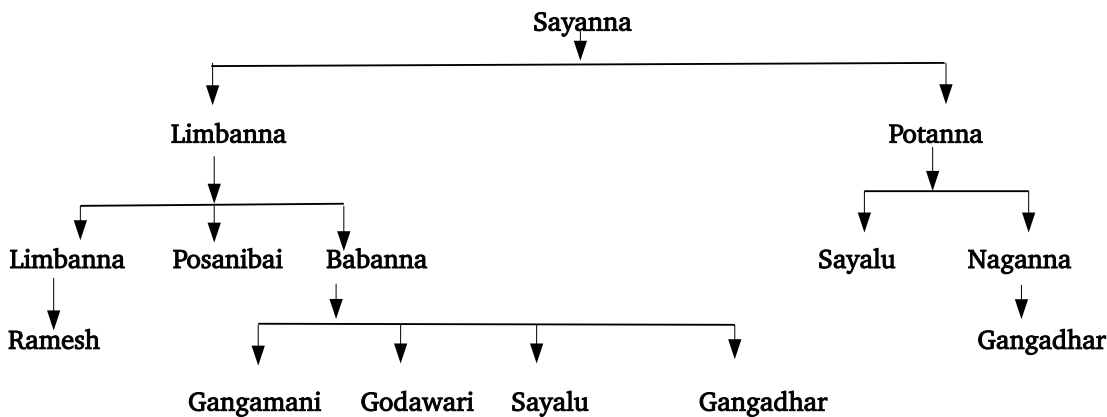


- Gangadhar** (Val.Holder) (Cousin cousin brother)
- Sayalu** (Val.Holder) (Cousin cousin brother)
- Gangamani** (Cousin cousin sister)
- Godavari** (Cousin cousin sister)

4. The petitioners are relying upon the certificates of validity issued to Gangadhar Babanna Biramwar in the year 2008 and Sayalu Babanna Biramwar issued in the year 2009. Admittedly, both these individuals have filed affidavits in support of the claims of Naresh and Minakshi and have given following genealogy :



5. Apparently, both these individuals are not showing that there cousin grandfather Narsimalu/Narsanna was having any son by name Limbaji stated to be petitioner Shrinivas’s father. It merely shows petitioners Naresh and Minakshi being the grandchildren of Narsimalu from his son Limbadri. In their own matters these two individuals Gangadhar Babanna Biramwar and Sayalu Babanna Biramwar have given following genealogy :



6. It is apparent that these two validity holders Gangadhar and Sayalu have not been showing that the common ancestor Sayanna, apart from Limbanna and Pottanna was having sons Naganna and Bhumanna as is being shown by the petitioners.

7. Pertinently in the original file of Gangadhar Babanna Biramwar made available to us, a statement of Babanna Limbanna Biramwar who is none other than the father of these two validity holders Gangadhar and Sayalu was recorded by the vigilance officer and bears his signatures. Even in this statement Babanna has stated that he had one paternal uncle by name Potanna Sayanna Biramwar and has further stated that he has only one brother by name Limbanna. However, the first genealogy reproduced herein above, furnished by these petitioners, shows that common ancestor Sayanna was having five sons. Apart from Limbanna and Potanna, regarding whom there is no dispute, the genealogy shows that even one Naganna petitioner's grandfather Narsimalu and one Bhumanna were also the sons of Sayanna. Again, though Babanna Limbanna in the statement has stated that he has only one brother by name Limbanna who was survived by son Ramesh, the genealogy furnished by the petitioners shows one more son of Limbanna by name Limbanna.

8. In view of these peculiar state of affairs, we have at the beginning expressed that we have a serious doubt about the petitioners being the blood relations of these two validity holders from the paternal side. However, since the Committee in the impugned order has not entertained and expressed any doubt regarding the petitioners being in the blood relations with these two validity holders, in our considered view, we cannot independently undertake any further scrutiny in this regard.

9. If the genealogy furnished by these two validity holders

Gangadhar and Sayalu both whom at least support the petitioners Naresh and Minakshi by showing their grandfather Narsimalu to be the brother of their own grandfather Limbanna, conspicuously they are not showing petitioner Shriniwas's father Limbaji to be the sons of Narsimalu. So this would make the petitioner Shriniwas's case more doubtful.

10. Interestingly, if the genealogy given by the validity holders Gangadhar and Sayalu is to be accepted, then admittedly apart from these two validity holders, even the grandson of Potanna Sayanna by name Gangadhar Naganna Biramwar is also a holder of a certificate of validity, albeit he does not seem to have come forward to support the petitioners' claim by filling any affidavit. But the fact remains that since the Committee has not entertained any doubt about the genealogy furnished by the petitioners, even without this Gangadhar Naganna Biramwar coming forward to support the petitioners, in our considered view this would be an additional circumstance which will lend support to the petitioners' claim.

11. There is one more interesting fact to be noted. The order of invalidation of one Santoshi Ashanna Biramwar stated to be granddaughter of Naganna Sayanna Biramwar has been considered by the Committee to observe that her invalidation was concealed by the validity holders, as a ground not to extend the benefit to the petitioners. Meaning thereby, the Committee has all the while proceeded without even hinting at any doubt about the genealogy furnished by the petitioners.

12. Be that as it may, since the Committee has not entertained any

doubt, we shall proceed on the premise that the petitioners are from the family, wherein, there are three validity holders Gangadhar Babanna Biramwar, Sayalu Babanna Biramwar and Gangadhar Naganna Biramwar.

13. The Committee has refused to extend benefit of these validities to the petitioners by observing that they had obtained such certificates of validity by resorting to suppression of inconsistent record and suppression of the invalidation in respect of Santoshi Ashanna Biramwar.

14. Since it is a matter of fraud, we do not intend to comment on the powers of the Committee to undertake such review or reopen the inquiries. Even if it has such a power, we do not intend to make any observations touching the circumstances which according to the Committee constitute fraud, for two reasons. Since it is an issue which is directly and substantially under consideration of the Scrutiny Committee we cannot make any observation which could have some bearing on that inquiry. Secondly, the validity holders are not before us. We also do not intend to cause any prejudice to them by making certain observations touching the alleged fraud. We leave it at that.

15. Pertinently, the Committee has not observed that in the matters of the validity holders no inquiry was conducted or no procedure was followed. In fact, the original files of Gangadhar Babanna Biramwar, Sayalu Babanna Biramwar are made available to us who in turn had relied upon the validity of Gangadhar Naganna Birawmwar. The original files clearly reveal that the certificates of validity were issued after conducting vigilance inquiry

and by recording elaborate reasons. It clearly shows that both of them were granted certificates of validity after due inquiry as is contemplated by law. If this be so, so long as the Committee does not confiscate and cancel the certificates of validity by resorting to due process of law, the petitioners cannot be deprived of having the same benefit.

16. The Committee has been heavily relying upon single contrary entry in the school record of Shivbai Naganna Biramwar, wherein, in the year 1960 in the caste column it has been written as 'Munurvar'. In our considered view, merely because of such isolated contrary entry the consistent entries in the school and birth record mentioned in the impugned orders which are favourable once could not have been ignored by the Committee. It would be merely a stray entry which cannot alone be a circumstance to discard the claims.

17. The Committee has then referred to one more circumstance, wherein, one Kavita Sandip Dhattrak sold by way of a registered sale deed land Gut No.354/1 to one Nagesh Shivaji Biramwar, wherein, there is a statement that the executant did not belong to any scheduled tribe. Pertinently, in spite of a specific reply to the vigilance report wherein the petitioners had expressly denied that Nagesh Shivaji Biramwar was related to them, the Committee has proceeded by assuming that that Nagesh is the petitioners' cousin grandfather when the genealogy does not show any individual either by name Shivaji Biramwar or Nagesh Shivaji Biramwar being the cousin grandfather. Besides, the sale deed was executed by Kavita

Sandip Dhatrak and Nagesh Shivaji Biramwar was a purchaser. Any statement in the sale deed in our considered view would bind the executant and not the person in whose favour it is being executed. Therefore, the Committee has clearly erred in resorting to this ground to discard the claim.

18. In the result, in our considered view, the Committee has grossly erred in refusing to issue certificate of validity to the petitioners. The order is clearly perverse and arbitrary and deserves to be reversed.

19 The writ petitions are partly allowed. The impugned order is quashed and set aside. The respondent-committee shall immediately issue certificate of validity to the petitioners of 'Mannervarlu' scheduled tribe whose validity shall be subject to the final outcome of the matters which the committee has decided to re-open.

20. The petitioners shall not be entitled to claim equities.

21. Pending Civil Applications are disposed of.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)