

Ashwini

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8190 OF 2015**

Rahul Chandrakant Kadam & Anr ...Petitioners
Versus
State of Maharashtra through its Secretary & Anr ...Respondents

Mr RK Mendadkar, *with Jayshri Mendadkar, for the Petitioners.*
Ms SS Bhende, AGP, *for the Respondent-State.*

**CORAM G.S. Patel &
 S.G. Dige, JJ.**
DATED: 20th January 2023

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1. **Rule.** Rule made returnable forthwith and the Petition is taken up for final hearing and disposal.
2. Heard both sides. The two Petitioners, Rahul Chandrakant Kadam and Kranti Sandesh Kadam, assail an order dated 26th June 2015 passed by the 2nd Respondent Scheduled Tribe Certificate Scrutiny Committee. A copy of the impugned order is at Exhibit “B”. We have considered this at some length. The Petitioners’ case

is that they belong to the Thakar Scheduled Tribe. Rahul is Kranti's paternal uncle. The Petitioners say that they belong to the Thakar Scheduled Tribe by birth. They were granted Caste Certificates. Copies of these certificates are annexed.

3. Rahul was selected for appointment under the reserved category by the Superintendent of Police, Beed, as a Police Constable. Kranti sought verification of her Caste Certificate because she wanted to pursue further studies and take admission to educational institution in the reserved category.

4. Both Petitioners say they submitted considerable evidentiary material to the 2nd Respondent Committee.

5. This material includes documents predating the Constitution. In addition, they placed on record Caste Validity Certificates dated 1st January 2004 issued by this Committee itself to one Adesh Sandesh Kadam, Kranti's brother and Rahul's nephew; of 19th October 2006 to one Anna Kantilal Kadam, Rahul's cousin and Kranti's uncle; dated 5th August 2005 issued to one Bhushan Lahu Kadam, Rahul's nephew and Kranti's cousin. One Hemant Popat Kadam, Rahul's cousin and Kranti's uncle filed Writ Petition No. 1691 of 1998 in this Court. That resulted in a judgment and order dated 8th October 2004 in his favour. That was also produced.

6. Rahu's and Kranti's case was referred to the vigilance cell. An enquiry followed. The Police Inspector examined the death extracts

regarding the Petitioners paternal ancestors. He submitted his report to the 2nd Respondent Committee.

7. Before the Committee, the Petitioners were asked to file their say. While doing so, they said that the vigilance cell had submitted its report without actually examining Rahul's father at his residence. There was no proper independent enquiry. Some earlier report had been copy-pasted with portions covered in white ink. Rahul also submitted that his cousin Hemant had been adjudicated by this Court as belonging to the Thakar Scheduled Tribe. The enquiry report made reference to one Gulab Gangaram Kadam. But he is not a relative of the Petitioners on the paternal side. There is one document pertaining to Sahebrao Gangaram Kadam, conceivably against the Petitioners. The contra entry noted by the Committee is the word "Bhat" in the record of one of the sons, one Gangaram Ganu Kadam. This has been subsequently corrected on 1st June 1935 and now shows Thakar. The Petitioners pointed that certain persons named were not in fact their paternal blood relatives. Their entries could not be taken into consideration. The Petitioners assailed the enquiry, which claimed that there were contra entries of Maratha and Bhat, as perverse. The Petitioners also cited some law before the Committee including that an overall view of the matter was required to be taken. The Petitioners were then heard. They then received the impugned order.

8. The submission by Mr Mendadkar is that there is one isolated entry in relation to Sahebrao Kadam showing his caste as Maratha on 17th February 1938. The older document is of 1st June 1934 but

that has been disregarded without sufficient consideration. Gangaram's caste was inadvertently wrongly recorded. It seems to have escaped the Committee's attention that the record was corrected in 1934 to reflect his caste as Thakar.

9. Mr Mendadkar also says that there no reason to discard the Caste Certificates of paternal blood relatives. The law in this regard has been settled firmly by decisions of this Court and of the Supreme Court.

10. Mr Mendadkar has prepared a compilation of the relevant judgments and has also now included a corrected copy of the judgment of the Division Bench of this Court in *Apoorva Vinay Nichale vs Divisional Caste Scrutiny Committee*.¹ The observations in that decision in paragraph 7 are that when a candidate submits a Caste Validity Certificate granted earlier in respect of a blood relative as belonging to the same caste, the Committee may grant certificate even without a vigilance cell report. Different considerations might apply if the earlier certificate is tainted by fraud or a jurisdictional error.

11. Reliance is also placed on the decisions in *Dilip Mahadeo Mhaske v State of Maharashtra*,² *Rohan Digambar Ratool v State of Maharashtra*,³ *Kshitij Pravin Londhe v State of Maharashtra*,⁴ *Abhijit*

1 2010 (6) Mh.L.J. 401.

2 2018 SCC OnLine Bom 1039 (Writ Petition No. 1158 of 2018, decided on 16th April 2018).

3 Writ Petition No. 15122 of 2022, decided on 4th January 2023.

4 Writ Petition No. 15826 of 2022, decided on 4th January 2023.

Suryakant Thakar & Anr v State of Maharashtra,⁵ *Amruta Vijay More v State of Maharashtra*,⁶ *Anita Atmaram Gaikwad v State of Maharashtra*⁷ and *Alka Balkrushan Suryavanshi alias Alka Bharat Solunke & Anr v State of Maharashtra & Ors.*⁸ The decision in *Mhaske*'s case dealt with the situation where Thakar was originally noted as a Nomadic Tribe. This was erroneous and, following a change in policy, Thakar was placed at Entry No. 44 of the Scheduled Tribe order. In *Rohan Ratool*, decided very recently, we referenced *Dillip Mhaske*'s judgment. In *Kshitij Pravin Londhe*, we also followed the same law including the decision of the Division Bench in *Apoorva Nichale*.

12. On a careful consideration of the impugned order, we are unable to see how the 2nd Respondent Committee could conceivably have arrived at the decision that it did. Irrelevant material was taken into account. Relevant and possibly determinative material was ignored or brushed aside. This is a failure of a decision-making process. In particular, we do not see how is a single contra entry could have been literally seen as a veto to all the other evidence and material the Petitioners had produced.

13. Accordingly, the Petition succeeds. The impugned order is quashed and set aside. Rule is made absolute in terms of prayer clause (a) and (b).

5 Writ Petition No. 4407 of 2019, decided on 5th January 2023.

6 Civil Appeal No. 7230 of 2011, decided on 23rd August 2011.

7 SLP (Civil) No. 23081 of 2010, decided on 16th April 2013.

8 Writ Petition No. 12705 of 2019, decided on 14th March 2022.

14. The 2nd Respondent Committee is directed to issue the Caste Validity Certificate to the Petitioners immediately, acting on production of an authenticated copy of this order.

15. No costs.

(S.G. Dige, J)

(G. S. Patel, J)