



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.8576 OF 2024

Ishwari d/o Raju More

... PETITIONER

VERSUS

Scheduled Tribe Certificate
Scrutiny Committee, Kinwat,
(Headquarter at Chhatrapati Sambhajinagar)
through its Member Secretary

... RESPONDENT

...

Advocate for petitioner: Mr. Mahesh S. Deshmukh i/b.
Mr. Suhas R. Shirsat
A.G.P for Respondent/State : Mr. S.R. Yadav Lonikar

...

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

DATE : 14.08.2024

ORDER (PER : MANGESH S. PATIL, J.) :

In view of the urgency being pointed out by the petitioner's learned advocate, we have heard the matter finally at the stage of admission.

2. We are emboldened to state and even would not hesitate to concede that the present matter epitomizes the oft quoted phrase "Justice hurried is justice buried", as we would demonstrate hereinafter.

3. The petitioner is challenging the judgement and order of the respondent - Scrutiny Committee refusing to validate her 'Koli Mahadev' scheduled tribe certificate in a proceedings undertaken under Section 7 of

the Maharashtra Act No.XXIII of 2001.

4. We have heard both the sides extensively and have carefully gone through the original files of the respondent - Scrutiny Committee in respect of several individuals.

5. The petitioner obtained 'Koli Mahadev' scheduled tribe certificate from the Competent Authority, Basmat, District Hingoli on 27.01.2021. With a view to make career she put hard labour and by appearing at the competitive exam succeeded in securing admission in reputed Visvesvaraya National Institute of Technology, Nagpur. Obviously, she has been seeking admission against a seat reserved for scheduled tribes.

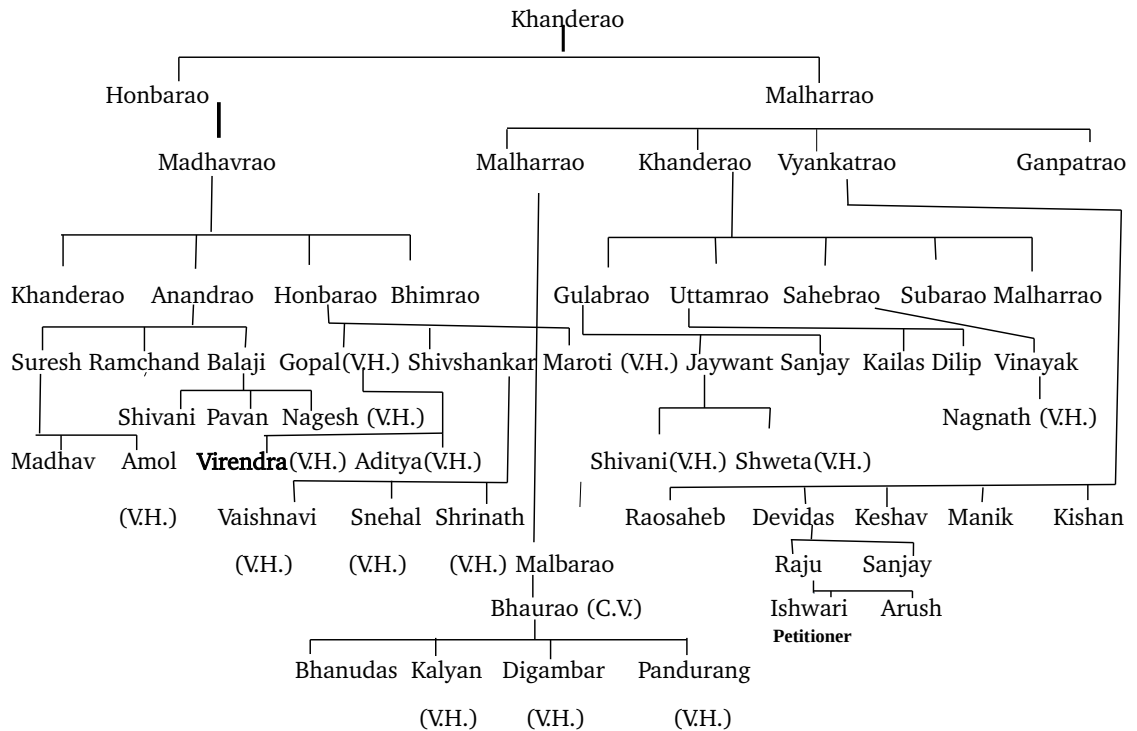
6. However, her proposal for validation of the tribe certificate was received by respondent - Committee on 10.06.2024. Being anxious to get early decision, she requested the Committee to process her file promptly. She filed Writ Petition No.8331/2024 and even requested us to issue a writ of mandamus to respondent - Committee for early decision. Having been convinced with her anxiety and the need of an early decision, by the order dated 06.08.2024, we directed the Committee to decide her proposal by 09.08.2024 and directed her to appear before the Committee on the next day i.e. 07.08.2024. Accordingly, the impugned order was passed on 09.08.2024.

7. The Committee has elaborately enlisted the contrary entries

of the school record of the individuals, wherein, they were referred to as 'Koli', which claim is inconsistent with the claim of 'Koli Mahadev' scheduled tribe. The former was earlier falling under Other Backward Class (OBC) category and is, for the present, a Special Backward Class (SBC). The Committee is of the view that these contrary entries being enormous, would not substantiate petitioner's claim.

8. Since the petitioner even sought to derive the benefit of certificates of validity possessed by several individuals, the Committee has refused to extend the benefit of these validities by expressly observing that there was not enough material to establish blood relationship between her and these validity holders and none of them had come forward to file affidavit in her support as is required by Rule 11 (2)(iii) of the Rules of 2003 framed under the Maharashtra Act No.XXIII of 2001.

9. It transpires that the petitioner was banking upon validities of Virendra Gopalrao More and Champatrao Dinkar More, stated to be her cousins and even described in the impugned order in the same fashion. Incidentally, all the contrary entries/record relied upon by the Committee are in respect of the individuals from the branch/family tree of those two individuals Virendra and Champatrao. The petitioner sought to rely upon a genealogy, a copy of which is placed on the record at page No.32 and reads as under:



10. From this genealogy one can *prima facie* see the relationship *inter se* between petitioner and Virendra More. Even this genealogy demonstrates her relationship from the paternal side with several other validity holders some of whom were held entitled to have the validity by the orders of the High Court. However, when we compare this genealogy with the genealogy furnished and relied upon by Virendra in his own matter, he had merely given the genealogy relating to the branch of Honbarao Khanderao stated to be his great great grandfather. There was also a short genealogy provided, perhaps in respect of Champatrao by stating that his great great grandfather Khanderao was having a cousin by name Sadbarao and Champatrao is his descendant. Obviously, Virendra did not disclose the branch of Malharao Khanderao. The genealogy being relied upon by the petitioner demonstrates her to be a

descendant of Malharrao.

11. The validity holders Shivani Jaywant More and Shweta Jaywant More are being shown by the petitioner in genealogy also from the branch of Malharrao. We had called for even their original files maintained by respondent - Scrutiny Committee. We extended opportunity to the learned advocate for the petitioner to go through these files and the genealogies furnished by them. Having gone through those, the learned advocate would point out from the file of Shweta that the genealogy prepared by the vigilance officer on the instructions of her father Jaywant Gulabrao More demonstrates the branch of Malharrao and petitioner's great grandfather Vyankatrao as the sons of Malharrao and also shows that Shweta and Shivani's great grandfather Khanderao is real brother of Vyankatrao.

12. However, the learned AGP submits that a bare look at the genealogy demonstrates that there is some manipulation and the branch of Vyankatrao has been added in the genealogy at some later point of time. He would also submit that there is every room to believe that even Ganpatrao and Malharrao's branch has been added therein subsequently. He would try to justify his such inference by stating that while preparing the genealogy all other lines have been put by use of a measuring scale but the lines in respect of Vyankatrao and Ganpatrao's branches have been marked in hand and are irregular.

13. Obviously, in the impugned judgment, we do not find any scrutiny having been undertaken by respondent - Scrutiny Committee by making comparison of the genealogies furnished by the petitioner and the one referred to in the matters of Shivani and Shweta.

14. Faced with the situation, we even asked the learned advocate for the petitioner to demonstrate as to if the impugned order contains any reference to school record of any of the individuals who are, like the petitioner, descendants of Vyankatrao Malharrao. He was unable to point out any such record having been referred to or relied upon in the matters of the validity holders, Virendra, Gopal, Shivani Jaywant More or Shweta Jaywant More.

15. Interestingly, the petitioner, may be due to the urgency, was allowed to, and filed a reply to the vigilance report conducted in the matter of Virendra and one Priti Digambar More. The vigilance report in the matter of Virendra and Priti was a common vigilance inquiry report which in turn was prepared by taking aid of the vigilance conducted in the matter of Shweta Jaywant More. Conspicuously, in Chart No.3 at Serial No.51 there is a reference to the school record of petitioner's father Raju Devidasrao More but describing him as 'Bhavki' (distant relative, of Virendra and Priti). If the petitioner is claiming to be related to the Virendra by blood from the paternal side and was responding to the vigilance report conducted in his matter, she ought to have objected to

the reference to her father as a distant relative of Virendra (Bhavki). In her reply (**Annexure-G**) dated 31.07.2024 she has not objected to the description of her father as distant relative of Virendra as distinguished from a blood relative.

16. The Committee on the one hand is refusing to treat Virendra as related to the petitioner by blood but on the other hand is referring to the contrary record of the individuals related to him by blood, to discard the petitioner's claim. Apparently, we have not been demonstrated about Committee having referred to any record of the individuals from the branch of her great great grandfather Vyankatrao Malharrao.

17. It is in the light of the above state of affairs, we have no manner of doubt that it is only because the proposal had reached respondent - Scrutiny Committee as late as in the month of June 2024 and since on the request of the petitioner we had directed the Committee to decide the proposal within three days of our passing the order on 06.08.2024, the Committee has had no opportunity to undertake a threadbare scrutiny and incidentally even the petitioner could not get sufficient opportunity to substantiate her claim. This is why we are embolden to state that it is a matter epitomizing the phrase "Justice hurried is justice buried" and even we are ready to share the blame for the unprecedented situation.

18. Apart from the above state of affairs, it appears that the

petitioner is also simultaneously seeking to derive the benefit of the validity possessed by her mother, in the peculiar facts and circumstances. It is being demonstrated that there is a marital dispute between her parents and recently they have obtained a divorce by mutual consent by the judgment and order dated 24.07.2024 in petition No.F-140/2023 of the Family Court, Nanded. If she intends to derive the benefit of the validity possessed by her mother, in the light of the decisions in the matter of **Rameshbhai Dabhai Naika Vs. State of Gujarat & Ors.; Civil Application No.654/2012** and is intending to rely upon the decision of a coordinate division bench in the matter of **Ku. Noopur d/o Prashant Ambre Vs. The Scheduled Tribe Caste Certificate Scrutiny Committee and Anr.; Writ Petition No.1737/2018** (Nagpur Bench), decided on 08.07.2019, it would be imperative for the petitioner to make out a specific case to derive the benefit of mother's validity.

19. All the aforementioned circumstances in our considered view would demonstrate that it is a matter which needs to be remanded to the Scrutiny Committee, which would enable the petitioner to justify her claim by leading cogent and sufficient evidence and would enable the committee to undertake a threadbare scrutiny.

20. The writ petition is allowed partly. The impugned order is quashed and set aside. The petitioner shall appear before the Committee on 19.08.2024. The Committee shall thereafter decide the proposal

afresh by extending her an opportunity to lead evidence. The Committee may resort to a fresh vigilance enquiry.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

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