



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

WRIT PETITION NO. 10870 OF 2024

1. Ashok S/o Dharmraj Nirde,
Age : 28 Years, Occu. : Education,
R/o Kacharwadi, Tq. Dharur,
Dist. Beed.
 2. Shamal D/o Dharmraj Nirde,
Age : 31 Years, Occu. : Education,
R/o Kacharwadi, Tq. Dharur,
Dist. Beed.
- .. Petitioners

Versus

1. The State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai.
 2. The Scheduled Tribe Certificate
Verification Committee, Chh.
Sambhaji Nagar, through its
Dy. Director (R),
Dist. Chh. Sambhajanagar.
- .. Respondents

Shri Sunil M. Vibhute, Advocate for the Petitioners.
Shri S. R. Yadav-Lonikar, A.G.P. for the Respondent Nos. 1 and 2.

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

**CLOSED FOR JUDGMENT ON : 17.10.2024
JUDGMENT PRONOUNCED ON : 22.10.2024**

JUDGMENT (Per Shailesh P. Brahme, J.) :-

. Rule. Rule is made returnable forthwith. Heard learned

counsel for both the sides finally at the admission stage as there is exigency in the matter.

2. The petitioners are siblings, whose tribe certificates of 'Koli Mahadev' scheduled tribe are invalidated by the judgment and order dated 26.09.2024 passed by the respondent No. 2/Scrutiny Committee, which is under challenge in the present petition. They are relying on validities of their father Dharmraj Manaji Nirde and cousin uncle Dhyanoba Ramrao Nirde.

3. The learned counsel for the petitioners submits that Prakash was the first validity holder. Relying upon his validity petitioners' father Dharmraj was also issued with the validity certificate. It is submitted that unless their validities are revoked, the petitioners cannot be deprived of same social status. It is further submitted that the Committee has not expressed any doubt about their relationship with first validity holder Prakash. The petitioners are ready to face consequences in view of the judgment **dated 27 July 2018** in the matter of **Shweta Balaji Isankar Vs. The State of Maharashtra and others in W. P. No. 5611 of 2018** and, therefore, they are entitled to receive conditional validity.

4. The learned Assistant Government Pleader supports the impugned judgment and order. He has tendered on record original papers. It is vehemently submitted that there is no relationship between petitioners' father Dharmraj and Prakash. He invites our attention to the report of the vigilance officer

submitted on 30.01.2024. The branch of the petitioners' ancestor Narayan is not figuring any where. A statement of Prakash was recorded wherein he disowned affidavit dated 19.06.2023. It is submitted that in view of the statement of Prakash and the vigilance report dated 30.01.2024, there is apparent fraud in attempting to derive benefit of Prakash's validity.

5. The learned A. G. P. further submitted that reply filed by the petitioners to the vigilance report does not clarify about statement of Prakash. It is further submitted that after order of remand in case of petitioners' father, no further vigilance inquiry was conducted and relying on Prakash's validity Dharmraj was issued with the validity certificate. The learned A. G. P. would submit that there is incompatible school record since 1966 and, therefore, the Committee has rightly rejected the tribe claims. No validity certificate can be granted to the petitioners, in view of the fraud played.

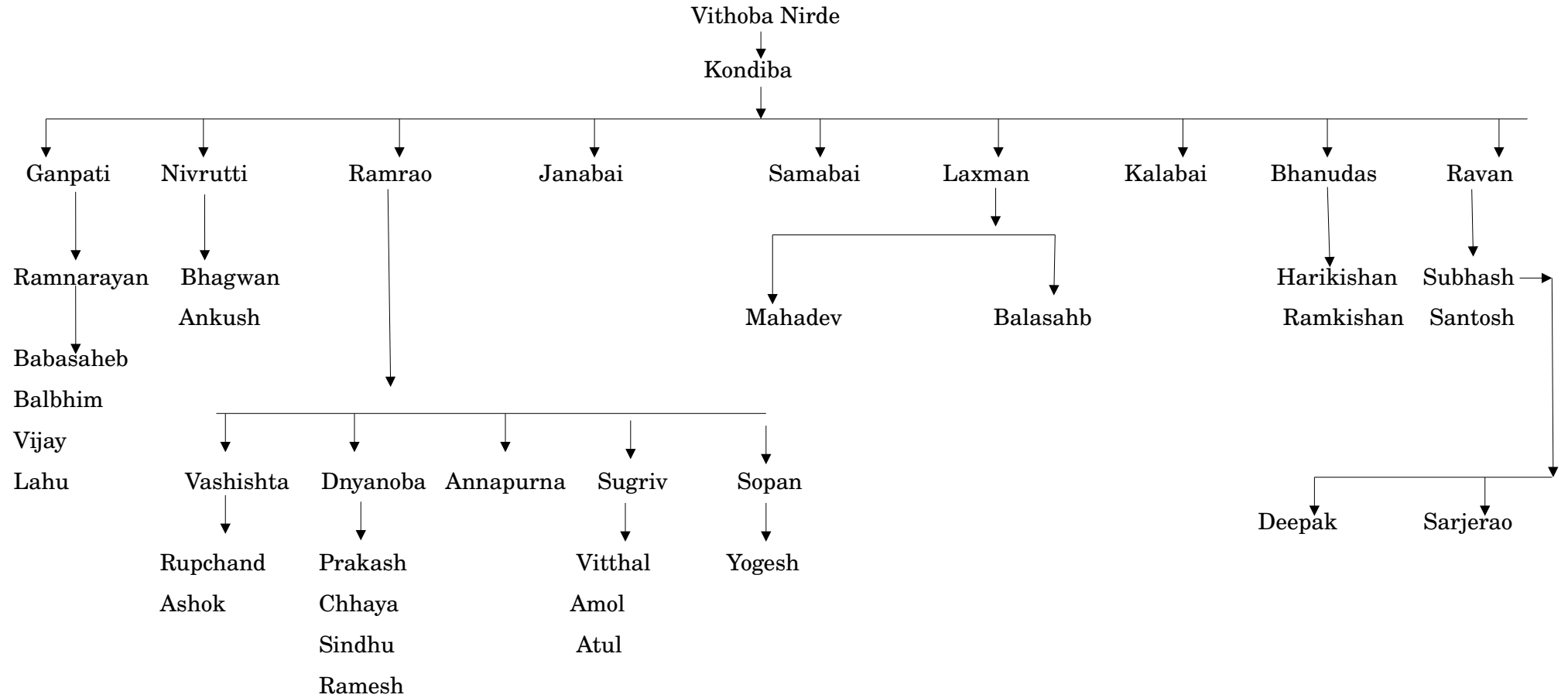
6. We have considered rival submissions of the parties. We have also gone through the original papers submitted by the respondents especially statement of Prakash Dnyanoba Nirde recorded on 21.11.2023, genealogy given by Prakash and his affidavit dated 19.06.2023, which is disowned any relationship with petitioners.

7. As per the contention of the petitioners, Prakash is the first validity holder and thereafter petitioners' father was issued with the validity certificate. Initially petitioners' father was denied

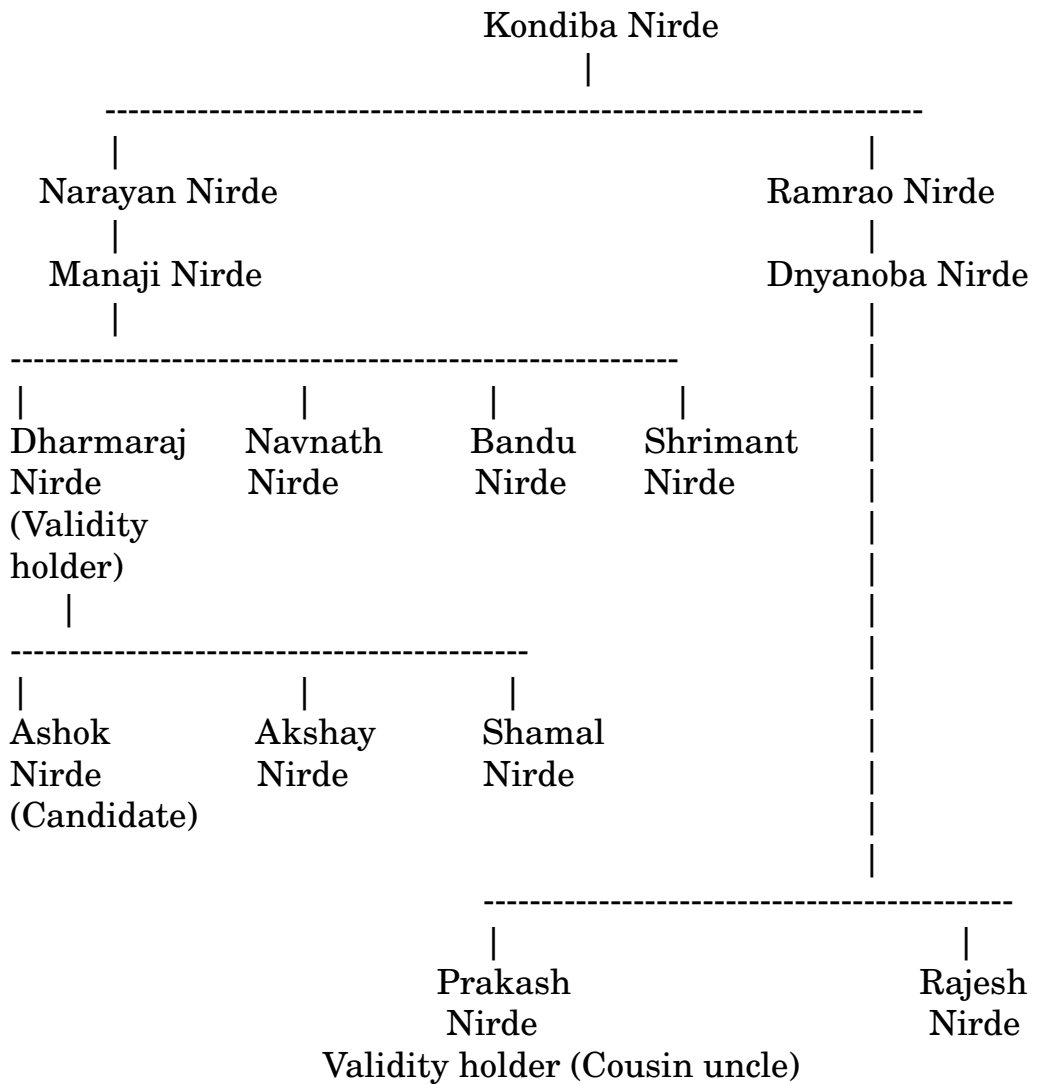
validity certificate by the Committee. Being aggrieved, he had preferred Writ Petition No. 6427 of 2007. It was allowed partly and the matter was remanded to the Committee for deciding it afresh. It was recorded in para No. 6 of the order of remand that Prakash was issued with validity certificate when the matter was pending in the High Court. It was represented by Dharmraj that Prakash was his cousin.

8. After order of remand, no specific vigilance enquiry was conducted in the matter of Dharmraj and Committee granted him validity certificate. We find that no reasons were assigned while issuing validity to Dharmraj. Relying on validity of Prakash, Dharmraj was issued with the validity certificate. We have reservations about the manner in which Dharmraj was issued with validity certificate.

9. During the course of vigilance inquiry in the present matter, statement of Prakash was recorded on 21.11.2023. He specifically stated that petitioners are not his blood relatives and the signature appearing on affidavit dated 19.06.2023 was not his. He even disputed the relationship stated in the affidavit. He gave genealogy before the vigilance officer. It is relevant to refer to the genealogy :



10. The genealogy given by the petitioners in the present matter is as follows :



11. If we compare genealogies given by Prakash and the petitioners, then branch of Narayan is absent in the genealogy given by Prakash. The petitioners are the lineal descendants of Narayan. Prakash is lineal descendant of Ramrao. In view of

vigilance report and the documents referred to above, we find that there is apparently no relationship between petitioners and Prakash. The affidavits of both the petitioners in Form F executed on 11.01.2023 disclosing the genealogy as referred to above is misleading. The petitioners have misled the Committee. This is apparent fraud.

12. The learned A. G. P. is right in submitting that there is no relationship between the petitioners and Prakash. Without following due procedure of law Dharmraj was issued with the validity certificate. Had due inquiry been conducted in his matter, he also would not have been issued with the validity certificate. The petitioners and their father attempted to mislead the Committee to derive the benefit of validity of Prakash. If the petitioners are granted validity then that would amount to perpetuation of the fraud.

13. The Committee rightly discarded the validities. We find that no satisfactory explanation was given by the petitioners for the incompatible school record of their blood relatives which was traced out from 1966. The petitioners do not rely upon any older record to support their claim.

14. It reveals from revenue record that land Sy. No. 92, 95, 60 and 62 belong to ancestors of validity holder Prakash. In the 7/12 extracts names of those persons are appearing. However, Narayan who is petitioners' great grandfather is no sharing the land. Narayan's entire branch is excluded, which creates doubt

for petitioners' relationship with validity holder Prakash. It is difficult to accept contention of the petitioner that he is related to Prakash.

15. We find that the Committee has not committed any illegality or perversity in rejecting the tribe claims. The plausible view has been taken which calls for no interference. We find no merit in the petition. The writ petition is dismissed.

[SHAILESH P. BRAHME, J.] [MANGESH S. PATIL, J.]

bsb / Oct. 24