



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11070 OF 2024

Champatrao s/o Dinkar More
Age 20 years, Occ. Student,
R/o. Murtijapur Sawangi,
Tq. Aundha Nagnath, Dist. Hingoli

...Petitioner

versus

1. The State of Maharashtra
Through its Secretary,
Tribal Development Department
Mantralaya, Mumbai – 32.
2. The Scheduled Tribe Certificate
Verification Committee,
Kinwat Headquarter at Aurangabad
Through its Member Secretary

...Respondents

.....
Mr. O.B. Boinwad, advocate for the petitioner
Mr. P. S. Patil, A.G.P. for respondents
.....

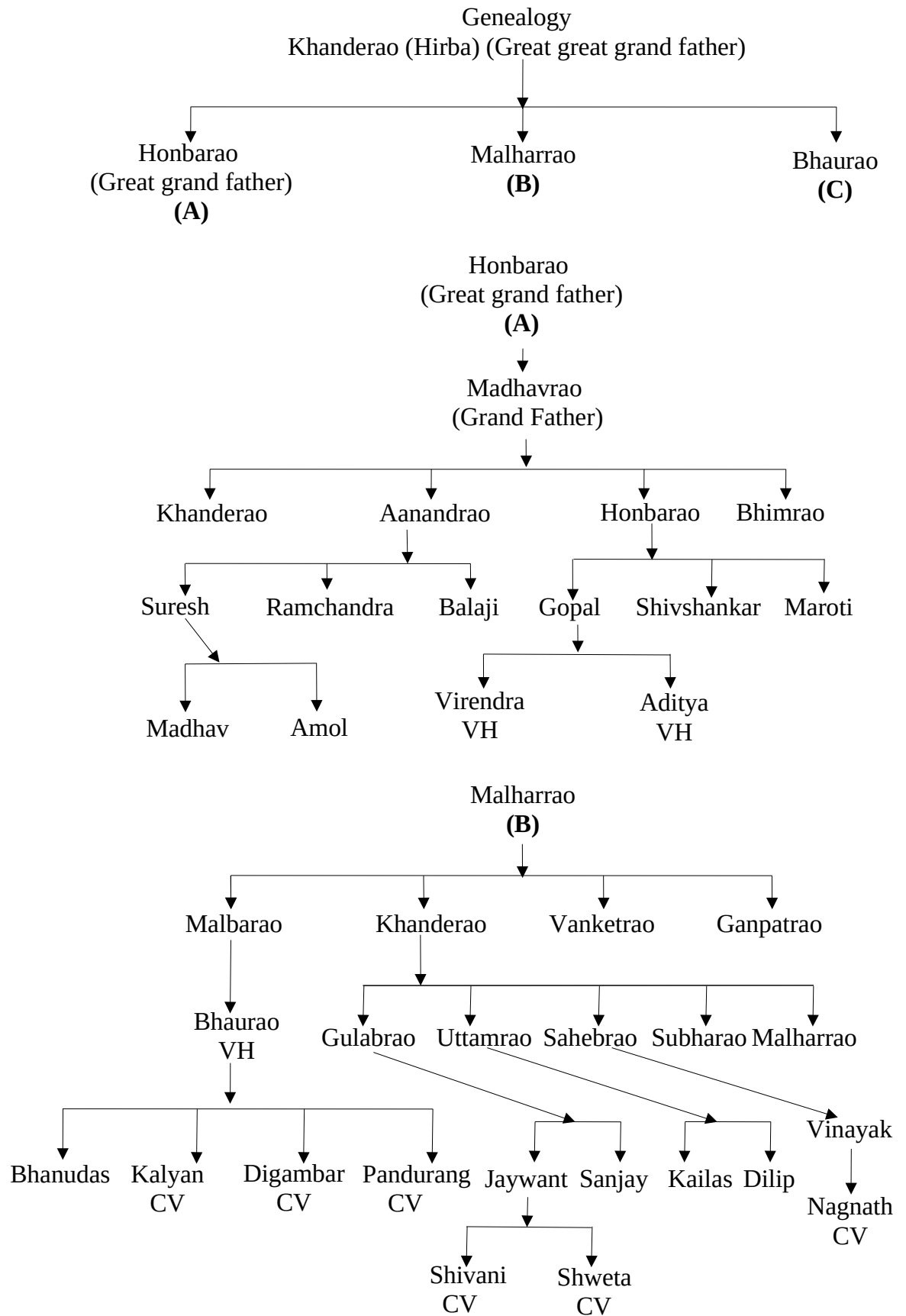
**CORAM : MANGESH S. PATIL AND
SHAILESH P. BRAHME, JJ.
DATED : 09 OCTOBER 2024**

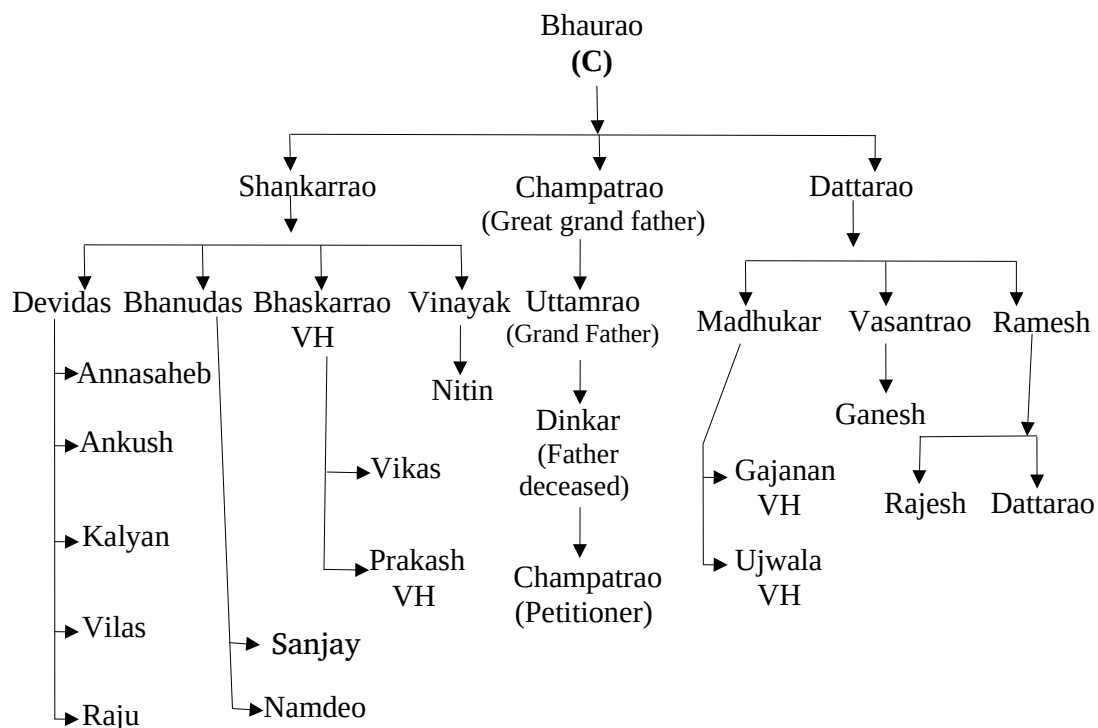
ORDER (MANGESH S. PATIL, J.) :-

We have heard both sides finally, at the stage of admission.

2. The petitioner is challenging the order of respondent – scrutiny committee, refusing to validate his 'Koli Mahadev' Scheduled tribe certificate, in a proceeding under Section 7 of the Maharashtra Act No. XXIII of 2001. The petitioner is relying upon following genealogy:-

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3. Learned advocate for the petitioner would submit that from the aforementioned genealogy, several individuals have been issued with certificates of validity either by the committees or pursuant to the orders of the High Court, in the following matters:-

Sr. No.	W.P. No.	Name of petitioner/validity holder	Date of decision
1	4577 of 2021	Virendra Gopalrao More U/g Gopalrao Honbarao More	22.03.2021
2	11180 of 2018	Vaishnavi Shivshankar More	27.07.2023
3	7509 of 2018	Shivani Jaywant More	24.07.2018
4	W.P. (st.) No. 26272 of 2020	Nagnath Vinayak More	11.01.2021

5.		127 of 2021	Shweta Jaywant More		07.01.2021
6		9518 of 2023	Snehal Shivshankar More		03.08.2023
7		5459 of 2021 and 5352 of 2021	Amol Sureshrao More and Gopal Honbarao More		07.08.2023
8		9668 of 2023	Aditya Gopalrao More		07.08.2023

4. Mr. Boinwad, learned advocate would submit that in the light of these many validities in the family, which individuals can be traced in the genealogy (supra), the petitioner is entitled to have a certificate of validity, may be subject to usual conditions.

5. Anticipating the submission of learned A.G.P. expressing doubt about these validity holders being related to petitioner by blood, Mr. Boinwad would submit that the committee has not expressed any doubt about the petitioner's blood relationship with these individuals, and for this reason alone, the learned A.G.P. may not be permitted to make submissions inconsistent with the stand of the scrutiny committee.

6. Besides, Mr. Boinwad would submit that in fact, the committee has referred to the school record of the individuals and has pitted it being contrary to the petitioner's claim, wherein these individuals have been described as 'Koli', is indicative of the fact that

the committee has used contrary record to discard the petitioner's claim as one of the reasons and if that be so, the learned A.G.P. cannot be allowed to take a stand incompatible with the reasoning of the committee.

7. Additionally, Mr. Boinwad would submit that in accordance with Rule 11 of the Rules of 2003, framed under the Maharashtra Act No. XXIII of 2001, the petitioner had filed an affidavit of validity holder **Prakash Bhaskar More**, to substantiate his claim and if the committee was having any doubt about his relationship with the petitioner, it could have specifically mentioned it and ought to have assigned the reasons. That being not the case, the petitioner is entitled to derive benefit of at least validity.

8. Learned A.G.P. would fairly concede that the committee, in the impugned judgment and order, has not entertained any doubt about petitioner being related to the validity holders, which the learned advocate for the petitioner is pointing out. However, he would submit that since **Prakash Bhaskar More** alone had come forward to file affidavit in support of the petitioner, the committee has proceeded on the basis of that affidavit under the premise that the petitioner is related to **Prakash** and his father **Bhaskar**, who also possesses a certificate of validity. He would submit that since the committee proceeded on this premise, as a logical consequence, it

has referred to the contrary school record of individuals from the branch of **Bhaurao Khanderao More**.

9. Learned A.G.P. would further submit that the scrutiny committee is manned by revenue officials who do not have the legal knowledge and have limitations in adopting appropriate approach while deciding such proceedings which statutorily require Scheduled Caste or Scheduled Tribe certificates to be verified. He would submit that merely because the committee has not entertained any doubt about the petitioner being related to validity holders and has even pitted against him the contrary record of the individuals though are admittedly related to **Prakash Bhaskar More** and his father **Bhaskar Shankarrao More**, there are several circumstances which, as an officer of the Court, he is duty bound to disclose to the Court to demonstrate that the incompatibility of the stand in the reasoning assigned by the committee, in the impugned order, cannot be allowed to be taken advantage of by the petitioner as that could have a drastic ramifications on the State policy for providing special treatment to the Scheduled Caste and Scheduled Tribe people.

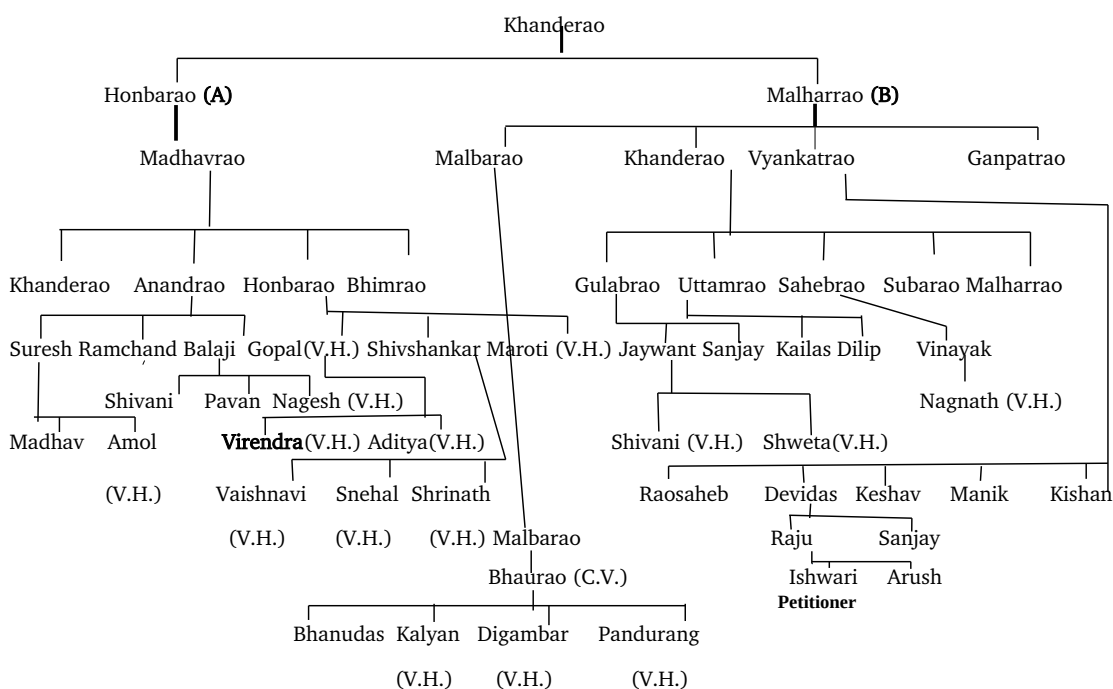
10. In order to substantiate his stand, he would refer to the genealogy furnished by **Bhaskar Shankarrao More** in his matter and the one furnished by his son **Prakash** and by one **Ishwari Raju More**, who though not to be seen in the genealogy furnished by the

petitioner (supra), is the daughter of **Raju Devidas More** shown as real nephew of **Bhaskar Shankarrao More** and first degree cousin of **Prakash Bhaskar More**. He would refer to our judgment in the matter of **Ishwari Raju More** in writ petition No. 8576 of 2024 decided on 14.08.2024. He would submit that **Ishwari Raju More** had furnished a genealogy, which we reproduced in that judgment and the genealogy being incompatible with the one furnished by present petitioner (supra). In her genealogy, she has shown **Khanderao** as the common ancestor and she being a descendant of **Khanderao**, son of **Malharrao** through his son **Venkatrao**. Whereas in the genealogy furnished by the petitioner, her father **Raju** has been shown to be grandson of one **Shankarrao Bhaurao More** and in the genealogy furnished by her, she has shown **Venkatrao Malharrao More**, as the grandfather of her father **Raju More**. He would therefore, submit that this being a matter of validation of tribe certificate, the matter may be remanded, to enable the petitioner to lead additional evidence, if he so desires, to establish his relationship with the validity holders, and even the committee would be thereafter able to take the decision afresh in the light of the aforementioned facts and circumstances.

11. We have considered the rival submissions and perused the papers. In the light of the parameters laid in **Maharashtra Adiwasi**

Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others; 2023 SCC Online SC 326, it is imperative that the benefit of earlier validities can be extended only if there is proof about the petitioner being related to them by blood from the paternal side.

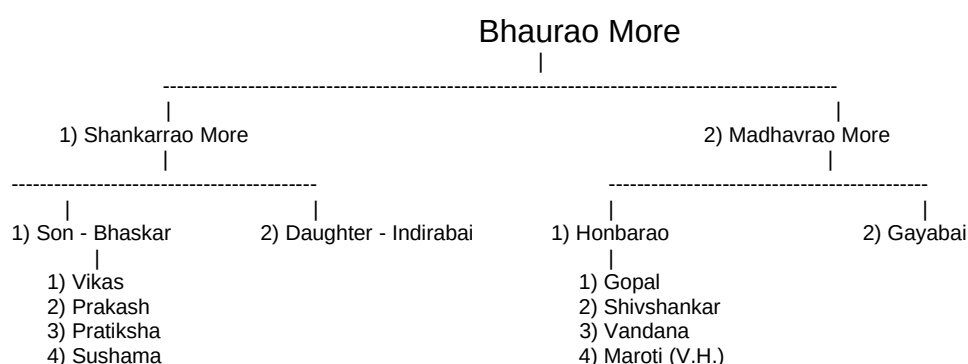
12. Bearing in mind this principle, *ex facie*, the genealogy being relied upon by the petitioner (*supra*) is not compatible with the one furnished by **Ishwari Raju More**, which we have reproduced in our judgment in her matter, as follows:-



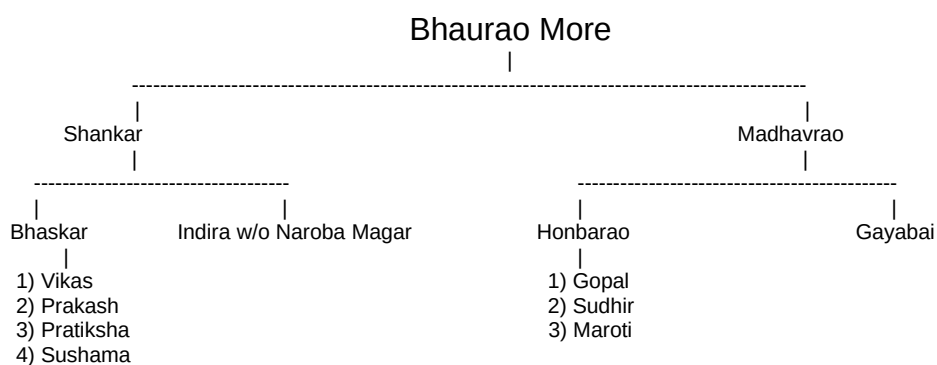
13. A bare look at these genealogies would make it abundantly clear that there is gross variance thereby making petitioner's case quite vulnerable. It may be that **Ishwari** might have committed error in furnishing genealogy but that will have to be demonstrated by leading proper evidence. We are merely pointing out the

incompatibility which goes to the root of the petitioner's claim of being related to these validity holders including **Bhaskar Shankarrao More** and his son **Prakash Bhaskar More**.

14. In his own matter, **Bhaskar** gave following genealogy:-

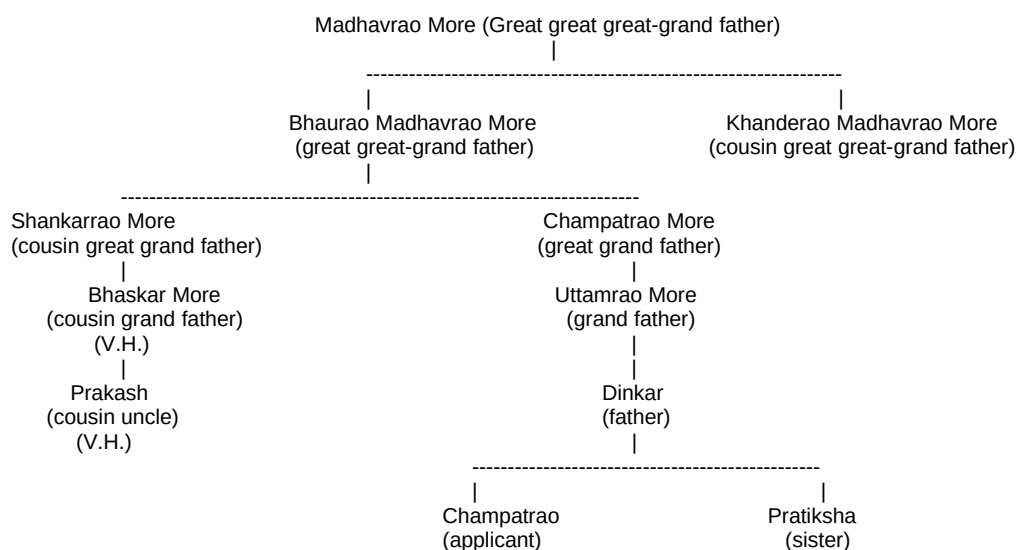


Additionally, the vigilance officer, in his matter prepared a genealogy under his signature as follows :-



Interestingly, there is a genealogy furnished by the petitioner in his own matter on affidavit in the prescribed format, as follows:-

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15. Apparently, even this genealogy furnished by the petitioner does not tally with the one filed by him in this petition (**page 24**). On affidavit, he had stated that one **Madhavrao More** was the common ancestor having two sons **Bhaurao** and **Khanderao** and **Bhaurao** being great great-grand father whereas in the first genealogy filed in this petition (supra), the common ancestor is shown as one **Khanderao (Hirba)** having three sons including the petitioner's great great-grand father **Bhaurao Madhavrao More**. The great great-grand father shown in this genealogy is **Bhaurao Khanderao More**.

16. As can be gathered, even this would be incompatible with the genealogy furnished by **Bhaskar Shankarrao More** (supra).

17. It is still interesting to note that in spite of incompatibility of the genealogy furnished by Ishwari Raju More (supra) and one relied upon by the petitioner, **Ishwari's** father - **Raju's** statement was

recorded during vigilance enquiry in the petitioner's matter and vigilance officer has prepared a genealogy under his signature.

18. In view of such gross incompatible genealogies, when apparently even the genealogy produced by the petitioner in this writ petition (supra) and the one furnished by him on affidavit before the scrutiny committee, even if the committee has not been able to undertake such threadbare scrutiny, in our considered view, it would be in the interest of justice that the committee is called upon to appreciate all the aforementioned facts and circumstances and decide the proposal meticulously. This would extend even an opportunity to the petitioner, to come out of such incompatible record.

19. In view of above, the matter is remanded back to the scrutiny committee for a decision afresh after giving opportunity to the petitioner to lead additional evidence as mentioned above.

20. The petitioner shall appear before the committee on 18.10.2024 and it shall then decide it within 16 weeks.

21. Writ petition is disposed of.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL , J.)

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