



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10880 OF 2024

Akshay Ishwarsing Bhokan,
Age. 18 years, Occ. Education,
R/o. Hiwari, Tq. Soegaon,
Dist. Ch. Sambhajinagar.

... Petitioners

Versus

1. The State of Maharashtra,
Through it's Secretary,
Tribal Development Department,
Mantralaya, Mumbai-32.

2. The Scheduled Tribe Certificate Scrutiny
Committee, Ch.Sambhajinagar Region,
Chhatrapati Sambhajinagar,
Through its Deputy Director (R).

... Respondents

WITH
WRIT PETITION NO. 10885 OF 2024

1. Rohit Shensing Bhokan,
Age. 21 years, Occ. Education,
R/o. Hiwari, Tq. Soegaon,
Dist. Ch. Sambhajinagar.

2. Rohan Shensing Bhokan,
Age. 18 years, Occ. Education,
R/o. Hiwari, Tq. Soegaon,
Dist. Ch. Sambhajinagar.

... Petitioners

Versus

1. The State of Maharashtra,
Through it's Secretary,
Tribal Development Department,
Mantralaya, Mumbai-32.

2. The Scheduled Tribe Certificate Scrutiny
Committee, Ch.Sambhajinagar Region,

Chhatrapati Sambhajinagar,
Through its Deputy Director (R).

...Respondents

...

Advocate for Petitioners : Mr. P.V. Jadhavar

AGP for Respondents : Mr. S.R. Yadav-Lonikar

...

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

Reserved on : 03 OCTOBER 2024

Pronounced on : 10 OCTOBER 2024

JUDGMENT [*Shailesh P. Brahme, J.*] :

Rule. Rule is made returnable forthwith. Heard both the sides finally considering exigency in the matter.

2. The petitioners are blood relatives and they are lineal descendants of branch Ramdas. Their tribe claims were rejected by judgment and order dated 23.09.2024 and 26.09.2024. There is common genealogy as well as record and therefore, we propose to decide these matters by common judgment and order. For sake of convenience, we are referring to paper book of Writ Petition No. 10880/2024.

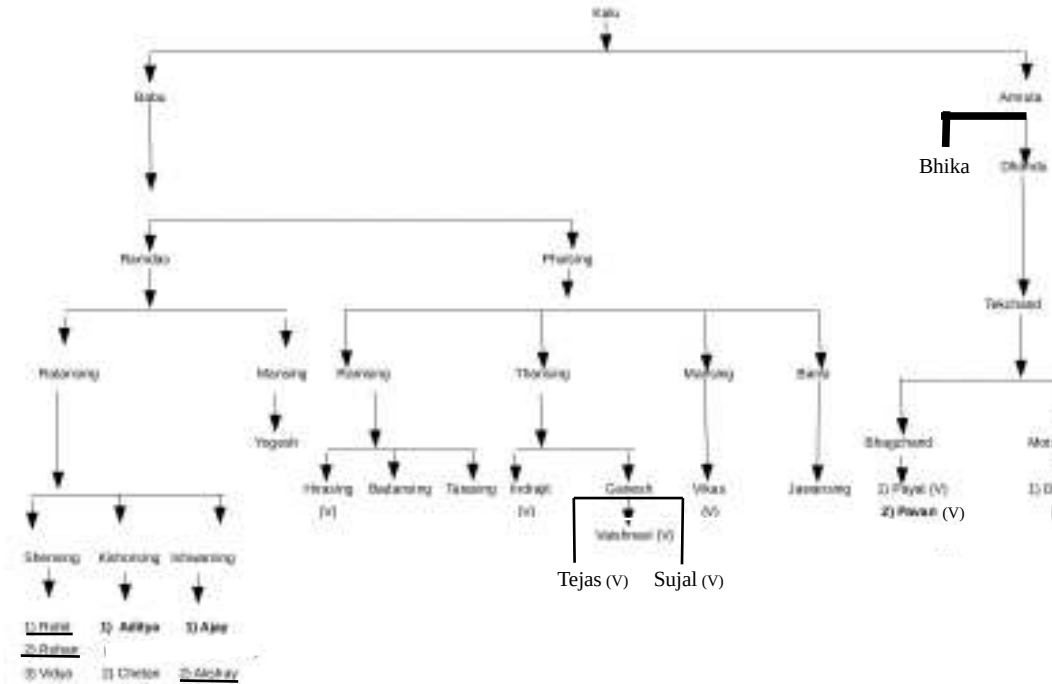
3. By impugned judgments their tribe certificates of scheduled tribe 'Naikda' are confiscated and invalidated. They are relying on number of validity certificates issued in their family. It is submitted that on the ground of parity, they are entitled to receive validity conditionally. It is further submitted that they are ready to face consequences as contemplated by *Shweta Balaji Isankar Versus State of Maharashtra and Others*, in Writ Petition No. 5611/2018.

4. Learned counsel for the petitioners submits that though by order dated 28.07.2023, the caste claim of Aditya Kishorsing Bhokan and Ajay Ishwarsingh Bhokan were rejected by our bench in Writ Petition No. 9062/2023, in the wake of affidavits filed by Hirasing Ramsing, Indrajitsing Thansing, Vaishnavi Ganesh and Payal Bhagchand, the petitioners are entitled to receive validities. Considering the different fact situation, common judgment of our bench would not be an impediment for allowing the petitioners' claim. He would submit that the old record was already scrutinized by the Committee in granting validity certificates to the blood relatives. Unless the earlier certificates are revoked, the petitioners cannot be denied same social status.

5. Learned AGP supports impugned judgment and order. He would vehemently submit that this bench by order dated 28.07.2023 in Writ Petition No. 9062/2023 has already rejected the claims of Aditya Kishorsing and Ajay Ishwarsingh which is final and binding. The petitioners being the lineal descendants of Ramdas are dis-entitled to claim any validity. He would submit that considering the tampering of the record, the fraud has been established and no case is made out by the petitioners. Petitioners are the lineal descendants of Ramdas and other validity holders are descendants of Phulsing and Amruta. Learned AGP would vehemently dispute their relationship with validity holders.

6. We have considered rival submissions of the parties. It would be necessary to mention genealogy to determine the tribe status of the petitioners which is as follows :-

Genealogy



7. The petitioners are relying on the orders of the High Court by which the conditional validities were issued to the blood relatives which are shown in the genealogy. Those are on record and as follows :

Sr. Nos.	Names	Writ Petition Nos.	Date of Orders
1.	Payal Bhagchand	8492/2020	08.01.2021
2.	i. Vaishnavi Ganesh ii. Dhirajkumar Motising	8943/2023	26.07.2023
3.	i. Tejas Ganesh ii. Sujal Ganesh	9849/2024	12.09.2024
4.	Pawan Bhagchand	9062/2023	28.07.2023

8. Besides above validity holders, petitioners are also relying on validities of Hirasing Ramsing, Indrajitsing Tharsing and Vikas Mansing. Reliance is placed on old revenue record which was referred by the co-ordinate bench in the matter of Payal Bhagchand Bhokan Versus State of Maharashtra, decided by order dated 08.01.2021 in Writ Petition No. 8492/2020. The old record of Ramsing, Tharsing and Tekchand indicating caste as 'Naikda' is

also placed on record. The old record has been verified in granting the certificate. Apparently, the validities issued to them can be treated to be issued after following due procedure of law and would enure to the benefit of the petitioners.

9. Learned AGP has placed heavy reliance on the common judgment and order dated 28.07.2023 passed by our bench in Writ Petition No. 9062/2023, confirming rejection of tribe claims of Aditya Kishorsing and Ajay Ishwarsing. Only the claim of Pawan Bhagchand was allowed. It can be seen from the genealogy that Pawan Bhagchand was the lineal descendant of Amruta. The rest of the petitioners in that matter and present petitioners are the lineal descendants of Babu or Ramdas. Ajay whose claim was rejected by Committee and then by High Court, is real brother of present petitioner Akshay. It would be necessary to look into our observations while rejecting tribe claims of Aditya and Ajay which can be extracted as follows :

“16. However, so far as the petitioner - Aditya and Ajay are concerned, though according to them they belong to the family of the common ancestor Kalu, as has been rightly pointed out by the learned AGP, there is a serious doubt as to if they really belong to the family of which Kalu is the ancestor.

17. Hirasing Ramsing and Bhagchand Tekchand in their affidavits have expressly excluded the branch of Ramdas being shown in the affidavits of petitioners Ajay and Aditya and Aditya's father Kishorsing. Hirasing Ramsing has expressly stated that his grandfather Phulsing was the only son of his great grandfather Balu and had no full brother. The attempt by the petitioners Aditya and Ajay to demonstrate that one Ramdas was the full brother of Phulsing and they were sons of Babu, is liable to be discarded.

18. During the course of arguments, when we asked Mr. Hon to demonstrate as to if any individual from the branch of either Babu or Amruta who were the two sons of original ancestor Kalu have ever admitted their blood relation with this branch of Ramdas, he was unable to point out. He would request for the matter to be remanded to enable the evidence to be led in that regard.

19. Since there is not a single affidavit of any individual from the branch of Phulsing Babu and Amruta Kalu admitting their blood relations with petitioner - Aditya and Ajay's family when Hirasing and Bhagchand have expressly stated on oath that Phulsing was the only son of Babu and was not having any full brother, this is sufficient to discard the claim of the petitioners Aditya and Ajay.

21. However, in our considered view, merely on the basis of this circumstance, one cannot draw an inference that petitioners Aditya and Ajay are related by blood to the other validity holders who are from the branch of Phulsing Babu and Amruta Kalu. For the reasons unknown they had responded to and adopted the reply of Vaishnavi and Dhiraj in the vigilance enquiry conducted. Since petitioner Aditya's father Kishorsing had given the genealogy showing the branch of Ramdas, in all probability, the committee proceeded to decide their claims together. That would not ipso facto lead to any inference about acceptance of the fact that Aditya and Ajay belong to the family of common ancestor Kalu."

10. There is no dispute that petitioners are lineal descendants of Babu or Ramdas as can be seen from genealogy but the fact situation in the present matters is totally different. In the present case Hirasing Ramsing, Indrajeet Thansing, Vaishnavi Ganesh and Payal Bhagchand have filed affidavits on 14.10.2023 disclosing branch of Babu or Ramdas in the genealogy and obviously, showing *inter se*, relationship of the petitioners with earlier validity holders falling in the branch of Amruta or Phulsing. This was not the situation in the matter which was decided by us earlier. Therefore, the reasoning for discarding tribe claim of Aditya and Ajay cannot be applied to the present case. We are unable to approve the submissions of the learned AGP.

11. In the present matter apparently there is material to disclose relationship of the petitioners with the earlier validity holders. The old revenue record which of Fasli 1350 showing caste 'Naikda' is in joint names of Ramdas Babu and Phulsing Babu. That is also another reason to hold, *prima facie*, that branch of Ramdas and Phulsing are related to each other and they are real brothers.

Unless the validities of earlier validity holders are revoked, petitioners cannot be denied from deriving the benefit of same social status.

12. Pertinently, the Committee did not express any reservations for the relationship of the petitioners with the earlier validity holders except referring to writ petition no. 9062/2023 decided on 28.07.2023. Learned AGP who is on the basis of our earlier decision in Writ Petition No. 9062/2023 advanced the submissions expressing doubt or the dispute between relationship of Ramdas and Phulsing.

13. The Scrutiny Committee has issued show cause notices to the earlier validity holders. It would be open for the scrutiny Committee to examine the relationship between the petitioners and earlier validity holders, incompatible and tampered school record to arrive at a conclusion as to whether any fraud has been committed or not. The petitioners cannot be made to wait till final outcome of reverification. They are ready to abide by judgment of *Shweta Balaji Isankar* (supra). We find that impugned judgment and orders are unsustainable and they are entitled to receive conditional validity. Therefore, we pass following order :

ORDER

- i. Writ Petitions are allowed partly.
- ii. Impugned judgments and orders dated 23.09.2024 and 26.09.2024 are quashed and set aside.
- iii. The respondent no. 2 – Scrutiny Committee shall immediately issue tribe validity certificates to the petitioners

as belonging to 'Naikda' scheduled tribe in the prescribed format which shall be co-terminus with the validities of earlier validity holders facing reverification.

iv. The petitioners shall not claim any equities.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]