



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11694 OF 2024

Rohit Vishwanath Thakur
Age : 19 years, Occu : Education,
R/o. Presently residing at
Tambepura Ganesh Colony,
Amalner District – Dhule

.. Petitioner

Versus

1] The State of Maharashtra
Through its Secretary, Tribal Development
Department, Mantralaya, Mumbai – 32

2] Joint Commissioner cum Vice Chairman
Scheduled Tribe Certificate Scrutiny
Committee, Aurangabad

.. Respondents

...
Advocate for petitioner : Mr. M.R. Wagh
AGP for the respondent – State : Mr. V.M. Kagne
...

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

DATE : 21 OCTOBER 2024

ORDER (MANGESH S. PATIL, J.) :

Heard both sides finally at the stage of admission.

2. The petitioner is challenging the order of respondent no. 2
- scrutiny committee constituted under the Maharashtra Act No. XXIII of
2001, whereby it has refused to validate his 'Thakur' scheduled tribe
certificate.

3. The learned advocate for the petitioner submits that in spite of enormous material in the form of school record of several blood relatives, wherein they have been described in the caste column as 'Thakur', the committee has wrongly discarded it on the basis of surmises and conjectures. It has illegally applied the area restriction in spite of its removal by the Amendment Act of 1976. Only based on couple of contrary entries of the year 1970 and one entry wherein inference has been drawn about manipulation, the concrete favourable evidence has been discarded. The committee has treated 'Hindu' entry in the caste column of the school record, as a contrary entry which it could not have legally done. The appreciation of the evidence by the committee is clearly faulty and perverse.

4. Learned advocate would further submits that the petitioner has been relying upon the validity of his cousin grandfather - Girdhar Pandu Shinde who was issued with certificate of validity on 15-02-2005. It was issued by following due process of law. No sound and cogent reasons have been assigned by the committee for refusing to extend validity of Girdhar even when it was not doubting the blood relationship between him and the petitioner.

5. Lastly, learned advocate would submit that the committee has also erroneously applied affinity test when the documents were in

abundance and favouring the petitioner's claim, in addition to the certificate of validity of Girdhar.

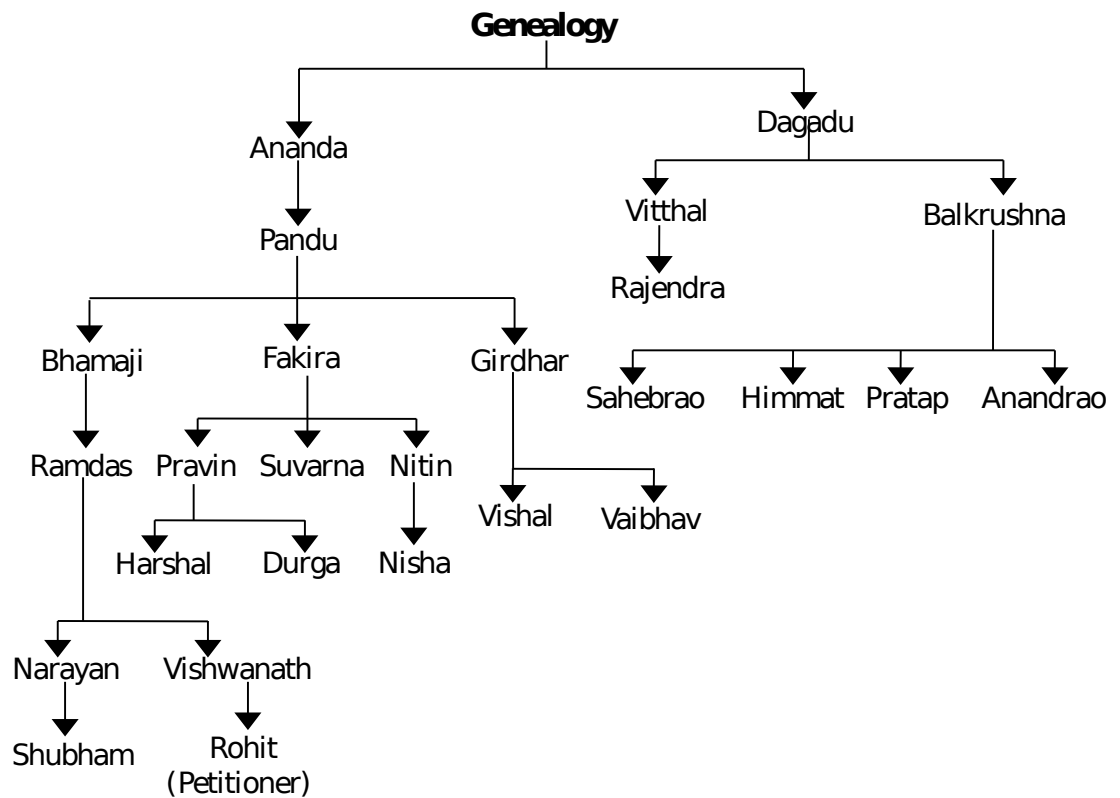
6. Learned AGP would submit that no fault can be found with the reasoning assigned by the committee to demonstrate as to how the petitioner's family does not belong to 'Thakur' scheduled tribe *albeit* the school record in the caste column mentions the petitioner and his blood relatives as 'Thakur'. It is a community from affluent category. Advantage is being taken due to similarity in the nomenclature of 'Thakur' who are considered affluent, with 'Thakur' who are actually tribals related to a specific area of the State of Maharashtra falling within the districts of Pune, Ahmednagar, Nashik, Thane, Palghar and Raigad. Similarly, no fault can be found with the observation of the committee that in the rest of the districts from the state, there has never been any reported residence of 'Thakur' scheduled tribe. Learned AGP would also submit that the committee has assigned reasons as to how, over a period of time, with the removal of area restriction, advantage is being taken by several such families who do not belong to 'Thakur' scheduled tribe. There is enormous exposition in the number of persons claiming to be 'Thakur' scheduled tribe in many districts of the state wherein earlier no such family was reported to be belonging to that tribe.

7. Learned AGP would further advert our attention to the fact that the genealogy furnished by the petitioner's mother on oath before the committee (**Exhibit - H**) does not tally with the genealogy of Girdhar and even if the committee has not entertained any doubt, it being a matter of grant of social status, this incompatibility in the genealogies is quite evident and cannot be overlooked.

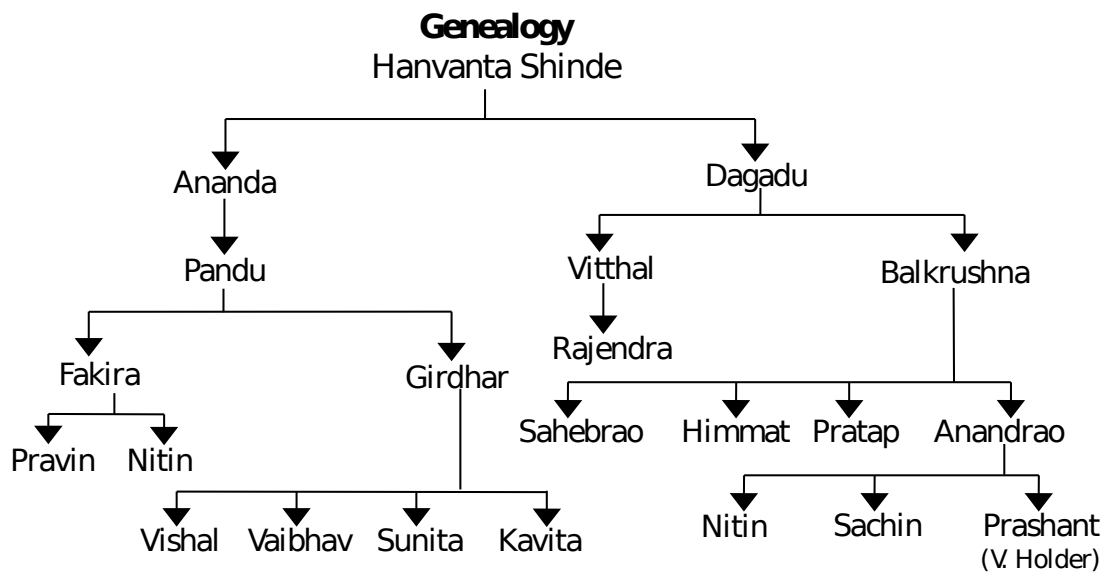
8. We have considered the rival submissions and perused the papers including the additional affidavit tendered across the bar by the learned advocate for the petitioner which is taken on record and marked as 'X' for the purpose of identification.

9. True it is that the committee has not entertained any doubt as regards petitioner being related to the validity holder - Girdhar, however, admittedly, Girdhar had not filed any affidavit to substantiate petitioner's claim as contemplated under rule 11 of the Rules of 2003 framed under the Maharashtra Act No. XXIII of 2001.

10. The petitioner's mother in her affidavit has given following genealogy (**Page 36 – Exhibit – H**) :

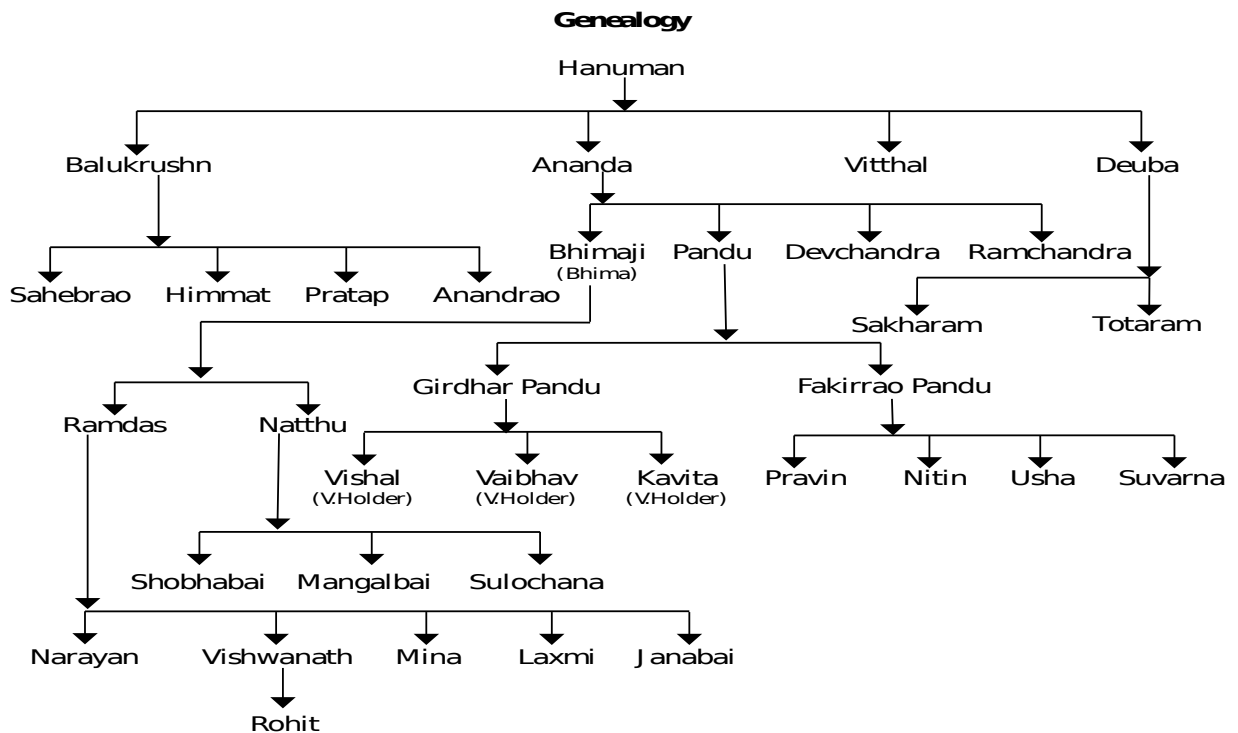


As compared to this, in the matter of Girdhar, who happens to be the validity holder, the genealogy given was like this :



11. The discrepancy is evident. The second genealogy does not show that Pandu Ananda Shinde was having three sons. It only shows that he was having only two sons Fakira and Girdhar. Petitioner claims to be the great grandchildren of Bhamaji who has been shown to be third son of Pandu in the genealogy furnished on oath by petitioner's mother. Apart therefrom, we could notice from the revenue record in the form of 7/12 extract in respect of land gat number 92 that it is only Fakirrao and Girdhar who have inherited the land equally. If really Bhamaji was their real brother, even he could have simultaneously inherited the land along with Fakirrao and Girdhar and each one would have then got 1/3rd share.

12. In the light of such discrepancy in the genealogies there is sufficient reason for us to doubt the genealogy relied upon by the petitioner on the basis of such revenue record. Learned advocate for the petitioner on the last date had sought time and has today tendered the additional affidavit together with affidavits of Pravin Fakirrao Shinde and Nitin Fakirrao Shinde who have now given the following genealogy:



It is evident from the genealogy being furnished by these two individuals that unlike what has been mentioned by petitioner's mother, Bhimaji who is the great grandfather of the petitioner, is now shown to be one of the four sons of Ananda and, the real brother of Pandu who was the father of validity holder - Girdhar and Fakirrao.

13. Obviously, these two affidavits corroborate the petitioner's claim of being related to Girdhar by blood, however, in the light of incompatibility in the affidavits furnished by petitioner's mother and these subsequent affidavits filed today, in our considered view, it would be appropriate for the committee now to embark upon a threadbare scrutiny of the petitioner's claim of being related to Girdhar Pandu Shinde by blood from paternal side. Irrespective of the stand of the

committee about Girdhar having practised fraud and its decision to undertake re-scrutiny of his validity, till the time it is not recalled, petitioner would be entitled to derive its benefit if he is able to demonstrate that he is related to Girdhar by blood, as is required by ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others; 2023 SCC Online SC 326.***

14. We do not intend to cause any prejudice to the petitioner *albeit* when such exercise of re-scrutiny of his claim takes place to ascertain his blood relationship with Girdhar.

15. The writ petition is allowed partly.

16. The impugned order is quashed and set aside. The matter is remanded back to the committee for decision afresh.

17. The petitioner shall appear before the committee on 23-10-2024 and the committee shall thereafter extend him an opportunity to lead additional evidence and shall decide the proposal afresh on its own merits and if necessary, by undertaking additional vigilance enquiry, specifically to ascertain if the petitioner is related to Girdhar by blood from the paternal side.

18. The committee shall decide the petitioner's proposal finally within three (3) weeks from the date of his appearance.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

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