



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

**WRIT PETITION NO. 4088 OF 2022**

Khushal S/o Sanjeev Dhote,  
aged 21 years, Occ. Education,  
R/o Plot No.39, Opp. Police Station,  
Smruti Nagar, Dattawadi, Nagpur

.... **Petitioner.**

**Versus**

1. The Scheduled Tribe Certificate Scrutiny Committee, Through its Member-Secretary and Deputy Director, Nagpur Division, Tah. and Dist. Nagpur
2. Priyadarshani Indira Gandhi College of Engineering, Hingna Road, Dighdoh Hills, Hingna, Nagpur, through its Principal.

.... **Respondents**

Mr. C.A.Babarekar, Advocate for Petitioner.

Mr. H.R.Dhumale Assistant Government Pleader for respondent No.1.

Mr. Ayushi Dangre, Advocate for respondent No.2.

**CORAM : NITIN W. SAMBRE AND**  
**ABHAY J. MANTRI, JJ.**

**DATED : **JULY 18, 2024****

**ORAL JUDGMENT** (Per : Abhay J. Mantri, J.)

**Rule.** Rule is made returnable forthwith. Heard finally, by the consent of the learned counsel appearing for the parties.

(2) The petitioner has invoked the writ jurisdiction challenging the order dated 30/05/2022 passed by the respondent No.1 Scheduled Tribe Certificate Scrutiny Committee (for short - '*the Committee*'), whereby the claim of the petitioner that he belongs to "Korku", Scheduled Tribe came to be invalidated.

(3) The petitioner claimed that he belongs to "Korku", a Scheduled Tribe. Accordingly, he applied to respondent No.1 Committee for a grant of a caste validity certificate, which was rejected by the Committee mainly on the grounds that he had not filed an application in a proper format. The petitioner challenged the said order in Writ Petition No.4319/2021. *"This Court, vide order dated 09/12/2021, set aside the said order and granted liberty to the petitioner to make a fresh application in proper format and directed the Committee to decide the same in accordance with law within a period of two months from the date of the appearance of the petitioner."*

(4) Pursuant to the said order, the petitioner applied afresh for a caste validity certificate. The petitioner has produced the documents in support of his claim. The Committee was dissatisfied with the documents produced by the petitioner and therefore, forwarded the proposal to the Vigilance Cell for a detailed inquiry. After the enquiry, the Vigilance Cell submitted its report to the respondent No.1 Committee on 29/04/2022. Upon receipt of the report, the petitioner

was called upon to explain his great-grandfather's residence in the 'Baitul' District, Madhya Pradesh.

(5) After considering the Vigilance Cell report and documents on record, the Committee held that the petitioner failed to demonstrate that his great-grandfather was a resident of Maharashtra State. Therefore, the claim for grant of caste validity that he belongs to the "Korku" Scheduled Tribe has been invalidated. Hence, this petition.

(6) Mr. Babrekar, learned Counsel for the petitioner, vehemently argued that the petitioner, in support of his claim, has produced eight documents from 1949 to 2014, wherein their caste is shown as "Korku", Scheduled Tribe. Also, the petitioner has produced four caste validity certificates issued by the respondent Committee to his blood relatives. Therefore, he urged that in view of the law laid down in the case of **Apoorva d/o Vinay Nichale vs. Divisional Caste Certificate Scrutiny Committee and others reported in 2010(6) Mh.L.J. 401**, the petitioner is entitled to get the validity certificate.

(7) He further argued that the petitioners' claim was rejected solely on the ground that his great-grandfather was a resident of Baitul District, Madhya Pradesh. However, he vehemently argued that the said issue is covered by the judgment in the case of **Bharat s/o Bhimrao Malakwade vs. Divisional Caste Certificate Scrutiny Committee No.3 Nagpur and another** reported in **2013(5) Mh.L.J. 946**. Hence, he submitted that

the petitioner is entitled to the relief as claimed when it is not disputed that "*Korku*" has been recognized as a 'Scheduled Tribe' in Madhya Pradesh and Maharashtra.

(8) As against this, the learned Assistant Government Pleader strenuously argued that the ancestors of the petitioner were residents of Baitul District, Madhya Pradesh. Therefore, as per Rule 5 of the Maharashtra Scheduled Tribes (Regulation of Issuance and Verification of) Certificate Rules, 2003 (hereinafter referred to as "Rules, 2003"), the petitioner is not entitled to get a Validity Certificate. As such, the petitioner can get a certificate from his native state, i.e., Madhya Pradesh, but not Maharashtra. In support of his submissions, he has relied upon several judgments. Hence, he has urged for the dismissal of the petition.

(9) We have appreciated the rival contentions and perused the impugned order and record, as well as the judgment in ***Bharat vs. D.C.C.S.Committee*** (cited supra).

(10) At the outset, the petitioner has produced eight documents to substantiate his claim. All eight documents are from 1949 to 2014, and their caste is shown as "Korku." It is pertinent to note that neither the Vigilance Cell nor the Committee has disputed those documents. However, the Committee has rejected the petitioner's claim solely on the ground that his great-grandfather was a resident of Baitul District

in Madhya Pradesh. Therefore, the petitioner is not entitled to the validity certificate in Maharashtra.

(11) Thus, the short question arises before us;

Whether a person who was not ordinarily resident on the date of the relevant Presidential Notification in the area now situated in the State of Maharashtra will be entitled to the benefit of reservation in the State ?

(12) It is to be noted that the said issue is already dealt with in the case of ***Bharat vs. D.C.C.S.Committee*** (cited supra), and this Court, in para 10, has held that though the ancestors of the petitioner in the said case were resident of the Chhindwara in Madhya Pradesh in that case also the petitioner in the said case was held entitled to get the certificate in the State of Maharashtra also. We would like to reproduce para 10 of the said Judgment, which thus reads as under:-

***“10. In our view, earlier, Chhindwara, where the ancestors of the petitioner had been permanently residing and Nagpur, where the petitioner and his family are now permanently residing, had been parts of the C.P. and Berar before the reorganization of the States. After the reorganization of the States, Chhindwara became part of the Madhya Pradesh State, and Nagpur became part of the Maharashtra State. These peculiar facts are considered by the Apex Court in the case of Sudhakar Vithal Kumbhare (cited supra), and it is held that such persons whose Caste/Tribe is recognized in both States are entitled to the benefits of reservation. We are of the opinion that in view of the peculiar facts of the present case, as in the case of Sudhakar Vithal Kumbhare (cited supra), the***

***petitioner will be entitled to the benefits as a Scheduled Caste candidate as it is not disputed that "Mahar" has been recognized as Scheduled Caste in the Madhya Pradesh State and it is recognized as Scheduled Caste in the Maharashtra State also."***

(13) The facts in the above-cited case and the case at hand are similar. Petitioner's great-grandfather was originally a resident of Baitul District, Madhya Pradesh. Thereafter, on 26/11/1962, the petitioner's grandfather was appointed as "Carpenter" in Ordnance Factory, Ambazari, Nagpur, and since then, he has migrated and resided in Maharashtra. It is also pertinent to note that in para 11 of the affidavit-in-reply and para 2 of the Vigilance Cell report, the respondent Committee has admitted that the "Korku" caste is recognized as Scheduled Tribes in Madhya Pradesh as well as in Maharashtra. Thus, it seems that the case in hand is covered by the dictum laid down in the case of ***Bharat vs. D.C.C.S.Committee*** (cited supra). Therefore, in view of the mandate in the said judgment, the petitioner is entitled to get a caste validity certificate that he belongs to the "Korku" Scheduled Tribe in Maharashtra State. Hence, we do not find substance in the argument advanced by the learned AGP in that regard. Consequently, we answer the question raised above in the ***affirmative***.

(14) In addition to that, the petitioner has produced four validity certificates issued by the respondent Committee in favour of his blood relatives, which the respondent Committee has not disputed but only observed that the same were issued contrary to the Maharashtra

Act No.23 of 2001 and Rules 2003. Therefore, the petitioner is not entitled to get the validity certificate as claimed. However, in view of the law laid down in the case of **Apoorva Nichale** (cited supra), the Committee ought not to have rejected the petitioner's claim. As against, it was incumbent on the Committee to grant the same status, which has been awarded to his blood relatives.

(15) Thus, considering the above discussion, it is evident that based on the four validity certificates, as well as the dictum laid down in the case of **Bharat vs.D.C.C.S.Committee** and **Apoorva Nichale** (cited supra), and the documents from the year 1949 to 2014, the petitioner is entitled to get the validity certificate. In this background, we deem it appropriate to allow the petition.

(16) The Writ Petition stands allowed. The impugned order dated 30/05/2022, passed by the respondent Committee, is hereby quashed and set aside. It is declared that the petitioner belongs to the "**Korku**" Scheduled Tribe. The respondent Committee is directed to issue a validity certificate in favour of the petitioner within four weeks from the date of production of the copy of this Judgment.

(17) Rule is made absolute in the above terms. No costs.

[ **Abhay J. Mantri, J. ]**

[ **Nitin W. Sambre, J. ]**

KOLHE