



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 729 OF 2025

- 1] Surekha Madhavrao Pillewad @
Surekha Shankar Tamwad

Age : 38 Yrs., Occu : Agril.
R/o. Gadga, Tq. Naigaon (Khair),
Dist. Nanded

- 2] Sainath Yashwant Pilewad
Age : 34 Yrs, Occu : Agril.

R/o Raheer, Tq. Naigaon (Khair),
Dist. Nanded

.. Petitioners

Versus

- 1] Scheduled Tribe Certificate
Scrutiny Committee, Kiinwat
(Headquarter at Chha. Sambhajinagar)
through its Member Secretary

- 2] District Collector, Nanded,
District Nanded

.. Respondents

...
Advocate for petitioners : Mr. Mahesh S. Deshmukh
AGP for respondents no. 1 and 2 : Ms. S.S. Joshi
...

**CORAM : MANGESH S. PATIL &
PRAFULLA S. KHUBALKAR, JJ.**

**RESERVED ON : 13 FEBRUARY 2025
PRONOUNCED ON : 18 FEBRUARY 2025**

ORDER (MANGESH S. PATIL, J.) :

Heard. Rule. It is made returnable forthwith. With the consent of the both the sides, the matter is heard finally at the stage of admission.

2. The petitioners are taking exception to the common judgment and order of respondent no. 1 – scrutiny committee, whereby it has refused to validate their ‘Koli Mahadeo’ scheduled tribe certificates.

3. The learned advocate for the petitioners would take us through the genealogy and the record *inter alia* pointing out that the oldest pre-constitutional school record of petitioner – Sainath’s grandfather – Sambhaji Laxman Pillewad of 09-06-1046 mentioned his caste in the school register as ‘Mahadeo Koli’. The committee has not assigned cogent and convincing reasons for discarding it. Though during the vigilance enquiry, it was verified by approaching the school, merely on the ground that all the 9 entries at page no. 1 of the school register, are in the same ink and same handwriting, the committee has refused to accept it and has entertained a suspicion.

4. Once it is found that the school record was very well available with the school, the committee could not have discarded it in this manner. He would thus submit that this was a reasonably acceptable evidence but has been discarded arbitrarily.

5. Mr. Deshmukh would further submit that the committee has also based its inference by referring to few sale deeds wherein petitioners’ blood relatives while selling the lands, expressly mentioned

in the sale deeds that they did not belong to any scheduled caste or scheduled tribe. He would advert our attention to the decision dated 18.08.2023 passed in the matter of ***Prathamesh S/o Bhanudas Thakur Vs. The State of Maharashtra and others*** (writ petition no.10198 of 2023 with connected writ petition) and would submit that this circumstance would be too remote. He would submit that that the statement in the sale deed could have been deliberately made to obviate any objection to the execution of the sale deeds.

6. Mr. Deshmukh would submit that though primary burden to prove that an individual belongs to a particular caste or tribe has been saddled on the claimants by section 8 of the Maharashtra Act No. XXIII of 2001, the degree of proof required is preponderance of probability and strict proof is not required. Apart from the pre-constitutional record of Sambhaji, there were few favourable entries as well of the year 1975 onwards which could have been, in the normal course, sufficient to discharge the burden.

7. Per contra, the learned AGP would submit that except the dubious entry of Sambhaji, there was nothing favourable to the petitioners. As is mentioned by the committee, there is enormous contrary record of older times to belie the petitioners' claims. Father – Madhav's school record of 1960 and 1963 described him as 'Marathi' and 'Koli' respectively, whereas the favourable entries relied upon by

the petitioners are of the period 1975 onwards. Oldest record would have a greater probative value and would be sufficient to discard the subsequent favourable record. She would, further, submit that the appreciation of the committee regarding dubious nature of the school record of Sambhaji of the year 1946, is a plausible one and this Court cannot sit in appeal to reach an independent conclusion.

8. Ms. Joshi would further submit that while executing the sale deed, the petitioners' blood relatives expressly declared in the sale deeds that they did not belong to any scheduled tribe or scheduled caste, which declaration is sufficient to belie the petitioners' claims.

9. We have considered the rival submissions and perused the original record.

10. Taking up the first piece of evidence, stated to be of a pre-constitutional time, obviously if it turns out to be a genuine school record, would carry a greater probative value and would easily substantiate petitioners' claims.

11. As can be seen from the vigilance report and the reasoning assigned by the committee, the committee seems to have readily accepted the remark of the vigilance officer. Though by virtue of the mechanism provided under the Maharashtra Act No. XXIII of 2001 and the rules framed thereunder, documents produced for

substantiating a caste or tribe claim need to be fortified by resorting to some vigilance enquiry, that does not mean that the committee which is conferred with quasi judicial power should readily accept whatever is reported by the vigilance officer. Statutory duty is cast upon the committee to doubly ensure by undertaking a scrutiny whether the report of the vigilance officer should be accepted or not.

12. Merely because the vigilance officer perceives for the reasons, he has mentioned in the report, the committee cannot accept it in verbatim without cross checking such information from the original record. This is precisely seems to have happened in the matter in hand. Whatever was transpired during vigilance enquiry and reported by the vigilance officer, has been reduced in the order under challenge in verbatim. There is nothing to demonstrate that the committee had taken pains in calling the original school register and verifying it with the assistance of the headmaster from whose custody it would be coming.

13. Drawing inference merely by referring to one page of the school register and that too simply by mentioning that all the 9 entries from that page are in the same ink and in the same handwriting would come with a responsibility on the scrutiny committee to verify the entire school record before it substantiated and accepted the opinion of the vigilance officer.

14. True it is that barring this pre-constitutional isolated entry, the other record available before the committee wherein the petitioners' blood relatives were described in the school record as 'Koli' in 1960 and 1963 would carry a greater probative value and would be sufficient to dis-lodge the entries of the period 1975 onwards.

15. Since this is not an adversarial litigation, when as pointed out herein-above, we have formed a view about the committee having not verified the original school register itself and has merely accepted and proceeded towing the line of the vigilance officer, it is a fit case to remand the matter back to the scrutiny committee with a direction to take a fresh decision, if necessary, by resorting to additional vigilance enquiry and particularly to undertake the exercise of examining the original school register. This would prejudice none and rather would be in aid of justice.

16. The writ petition is allowed partly.

17. Impugned order is quashed and set aside.

18. The matter is remanded back to the respondent – scrutiny committee for afresh decision in the light of the observations made herein-above.

19. The petitioners shall appear before the committee on 25 February 2025 and the committee shall thereafter decide the proposal as expeditiously as possible and in any case within four months. It is clarified that the scrutiny committee is at liberty to decide the proposal uninfluenced by this order.

20. Rule is made absolute in above terms.

[PRAFULLA S. KHUBALKAR]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/