



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

**REVIEW APPLICATION NO.51 OF 2025 IN
WRIT PETITION NO.400 OF 2024**

Rushikesh Bibhishan Bodhwad ... **PETITIONER**

VERSUS

The State of Maharashtra & ors. ... **RESPONDENTS**

.....
Mr. Mahesh Deshmukh, Advocate holding for
Mr. A.S. Bayas, Advocate for applicant
Mr. P.K. Lakhotia, A.G.P. for R.No.1 to 4
Mr. S.B. Deshpande, Senior Counsel i/by
Mr. Shrinivas Salunke, Advocate for R.No.5
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**CORAM : R.G. AVACHAT AND
SANDIPKUMAR C. MORE, JJ.**

DATE : 13th JUNE, 2025

ORAL ORDER :

Heard. The applicant herein was the original petitioner in Writ Petition (No.400/2024). By this application, he seeks review of the judgment and order of us, dated 26/3/2025, upholding the order of the Tribe Certificate Scrutiny Committee, refusing to grant validity to the tribe certificate of the applicant.

2. The learned Advocate for the applicant submits that, there is error apparent on the face of record. The error is in the nature of not considering the judgment cited by the petitioner in the Writ Petition in support of his claim that when his blood relations, namely father, uncle and two sisters were holding the validity certificates, the applicant ought to have been granted validity to his caste certificate. He would further submit that, there are host of authorities including some, to which one of us is a party, holding that the claimant would be entitled to have validity certificate when his blood relations hold the validity certificates and those certificates remained undisturbed. According to learned Advocate, mere issuance of notice to show case after reopening of the cases of the applicant's blood relations does not amount to recall of those certificates. He has also submitted that, in response to the notice issued to one of the blood relations of the applicant, the relative has approached this Court in Writ Petition. This Court has granted interim relief directing the Committee to continue with the enquiry, but not to pass final order therein. He would further submit that in rejoinder affidavit, the applicant had relied on the judgment of one Dhananjay Bagul and specifically

averred the observations therein. According to him, this Court did not advert to the said authority and this amounts to an error apparent on the face of record. He meant to say that, all the submissions advanced by the learned Advocate for the petitioner had in fact not been addressed by this Court.

3. He would further submit that, this Court relied on paras 22 and 23 of the judgment of the Apex Court in case of **Maharashtra Adivasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra & ors. (2023 SCC OnLine 326)**. He specifically adverted to the words "due and proper enquiry" appearing in para 22 of the said judgment. He would further submit that, the validity certificate granted to the applicant's blood relations, were issued by the Committee after holding a fullfleged enquiry in terms of Rule 12 of the Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Rules (hereinafter referred to as the Rules). He has also relied on the judgment of the Division Bench in case of **Anil Shivram Bandawar Vs. District Caste Certificate Verification Committee & anr.**

[**2021 (6) Bom.C.R. 635**] to submit that, it is very easy to aver or plead fraud but difficult to prove the same. According to him, suppression of fact if unintentional, would not take colour of fraud. According to him, while the aunt of the petitioner was granted validity, some contra entries were before the Scrutiny Committee. He meant to say that, those validity certificates were granted after considering the entire material on record. The applicant did not have any reason to suppress any material from the Scrutiny Committee. He would further submit that, the caste claim of the applicant's aunt was taken exception to by one of the villagers who was in the fray of Village Panchayat elections. The matter had reached this Court and on remand of the matter, the validity certificate was granted in favour of the applicant's aunt. The learned Advocate reiterated that all the validity certificates of the blood relations of the applicant stated hereinabove, are intact and, therefore, in view of the judgment in case of Dhananjay Bagul and other number of authorities relied on and even referred to in the judgment by this Court, speak of granting validity certificate to the concerned claimant, at least conditionally.

4. The learned A.G.P. and the learned Senior

Advocate for the intervener would submit that, it is not a case of review of the judgment and order. The applicant has come with a change of learned Advocate. The learned A.G.P. relied on the judgment in case of **Raju Ramsing Vasave Vs. Mahesh Deorao Bhivapurkar & ors. [2009 (1) Mh.L.J. SC 1]** to submit that, it is open to the Committee to take a different view if a case of fraud is detected while granting the validity to a blood relative of the claimant before it. The learned A.G.P. would further submit that, in review jurisdiction, prayer for grant of conditional validity could not be considered.

5. We have considered the submissions advanced. Perused the authorities relied on. Order 47 Rule 1 of the Code of Civil Procedure speaks of review of judgment and order in following cases.

“1. Application for review of judgment.—

(1) Any person considering himself aggrieved—

(a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,

(b) by a decree or order from which no appeal is allowed, or

(c) by a decision on a reference from a Court of Small Causes,

and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order.”

6. The gist of the submissions of the learned Advocate for the applicant is as to non-consideration of the authoritative pronouncements of this Court and Apex Court for at least granting conditional validity when the blood relations of the concerned claimant hold validity certificates. This submission was very much made by the learned Advocate then appearing in the Writ Petition. We were very much conscious of this submission. The authorities relied on were very much on our mind, but we did not refer to them in detail in our judgment since we were of the view that the Apex Court, in para 22 of the judgment in case of Maharashtra Adivasi Thakur Jamat Swarakshan Samiti (supra) has observed that, “If it is established that the validity certificate has been granted without holding a proper inquiry or without recording reasons, obviously, the Caste Scrutiny Committee cannot validate the caste certificate only on the basis of such validity certificate of

the blood relative". The Committee had found that, the original school record of the applicant's father was not placed before the Committee. Rule 11 of the Rules mandates the applicant to place before the Committee school record of his father. Admittedly, the same has not been done in the present case. It has already been observed that, the school record of the father of the applicant disclosed his caste as Kashari, which falls in O.B.C. category. The Committee, on appreciation of the material before it, found that, there were number of contra entries and even interpolation in the school record of the applicant's uncle and father. In short, the Scrutiny Committee, on appreciation of the entire material on record before it, came to the factual finding and it found that the validity granted to the blood relations of the applicant were required to be reopened. On reappraisal of the said entire material by us, we were at one with the findings recorded by the Scrutiny Committee. In our considered view, the same is permissible in view of the observations in para 22 of the aforesaid judgment, besides the observations in the judgment of Apex Court in case of Raju Vasave (supra). In short, based on the entire material on record, the Scrutiny Committee came to its conclusion and we did affirm while deciding the Writ Petition.

7. The learned Advocate would submit that the record of Kashari caste was very much available while the claim of the petitioner's aunt was under consideration before the Scrutiny Committee. He meant to say that, the validity was granted to his aunt after holding a fullfleged enquiry. It is an admitted fact that the applicant had not relied on the validity certificate of his aunt before the Scrutiny Committee.

8. We are conscious of the fact that, fraud is very difficult to prove and it is one who propounds the same to prove the same. It is not the case of the applicant that there is some other material which would vouch for his claim. The entire material was before the Scrutiny Committee. The applicant had every opportunity to meet it. We reiterate that, in the facts and circumstances of the present case, we did not find it to be a fit case to grant the applicant a conditional validity. Those submissions were very much there on our mind while deciding the Writ Petition.

9. For all the aforesaid reasons, the Review Application stands rejected.

10. Learned Advocate for the applicant urged for

continuation of the interim relief which was granted in the Writ Petition. Both the learned A.G.P. and learned Senior Advocate opposed the prayer.

11. The applicant is said to have been selected for the post of Deputy Director, Agriculture. He proposes to assail this order. Therefore, we are inclined to continue the interim relief for a period of four weeks. It is, however, made clear that, this interim relief was not granted by this Court in the Review Application. While the Writ Petition was dismissed, the interim order that was in operation in the Writ Petition, was allowed to be continued until 12th June 2025 only with a view to enable the applicant to approach the higher forum. Even this Court was not aware of the applicant to have filed the Review Application. It was posed as if the interim order was passed or continued in Review Application. We do not wish to add anything more. The interim relief to continue for a period of four weeks.

(SANDIPKUMAR C. MORE, J.)

(R.G. AVACHAT, J.)