



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7837 OF 2019

Pratik Satishrao Dhade,
Age : 23 years, Occu : Student,
R/o. Shirole (Wa), Tq. Nilanga,
Dist. Latur

.. Petitioner

Versus

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

2] The Scheduled Tribe Certificate Scrutiny
Committee, Aurangabad
Through its Deputy Director. (R),

3] The Dean / Principal,
Rajshri Chhatrapati Shahu Maharaj
Government Medical College, Kolhapur,
Tq. & Dist. Kolhapur

4] The Registrar,
Maharashtra University of Health Sciences,
Nashik Dindori Road, Nashik,
Tq. & Dist. Nashik

.. Respondents

...
Advocate for the petitioner : Mr. Pratap V. Jadhavar
AGP for respondents no. 1 to 3 : Mr. R.K. Ingole
Advocate for respondent no. 4 : Mr. K.M. Suryawanshi
...

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

DATE : 27 FEBRUARY 2025

ORDER (MANGESH S. PATIL, J.) :

By this petition under Article 226 of the Constitution of India, the petitioner is challenging the judgment and order of the respondent - scrutiny committee, whereby it has refused to validate his 'Koli Mahadev' scheduled tribe certificate.

2. At the joint request of the parties, the matter is being heard and decided finally at the admission stage.

3. Learned advocate for the petitioner submits that the impugned judgment and order is perverse and arbitrary. It ignores even the certificate of validity possessed by one Govind Shankar Dhade, who is the third degree paternal uncle of the petitioner as indicated in the genealogy furnished by none other than Govind himself and reproduced in the impugned judgment and order. He would submit that the committee has entertained a doubt, merely by making an observation that the genealogy which was furnished by Govind in his own matter, does not tally with the genealogy given by him in his affidavit filed in support of the petitioner's claim. He submits that at the most, the genealogy furnished in his own matter, can be said to be insufficient but cannot be said to be incompatible with the genealogy furnished by him in the petitioner's matter. He would also submit that even some record stated to be contrary record from the branch of Govind, has been relied upon by the committee, to entertain a doubt about petitioner's claim. He would, therefore, submit that using contrary record, the committee is referring to Govind's record but when it is a matter of extending benefit of Govind's validity, the committee has entertained a doubt. Such approach of the committee is self-destructive, demonstrating non-application of mind.

4. Learned advocate would further submit that though there are few contrary entries wherein petitioner's relatives have been shown to be 'Hindu Koli', simultaneously, there are several other favourable entries in the school record wherein the petitioner's relatives have been described as 'Koli Mahadev'. He submits that the petitioner is ready to run the risk of facing the consequences as contemplated in ***Shweta Balaji Isankar Vs. State of Maharashtra and others (writ petition no. 6320 of 2017)***. Till the time the committee is able to recall the validity of Govind, as it has indicated, the petitioner cannot be denied the benefit.

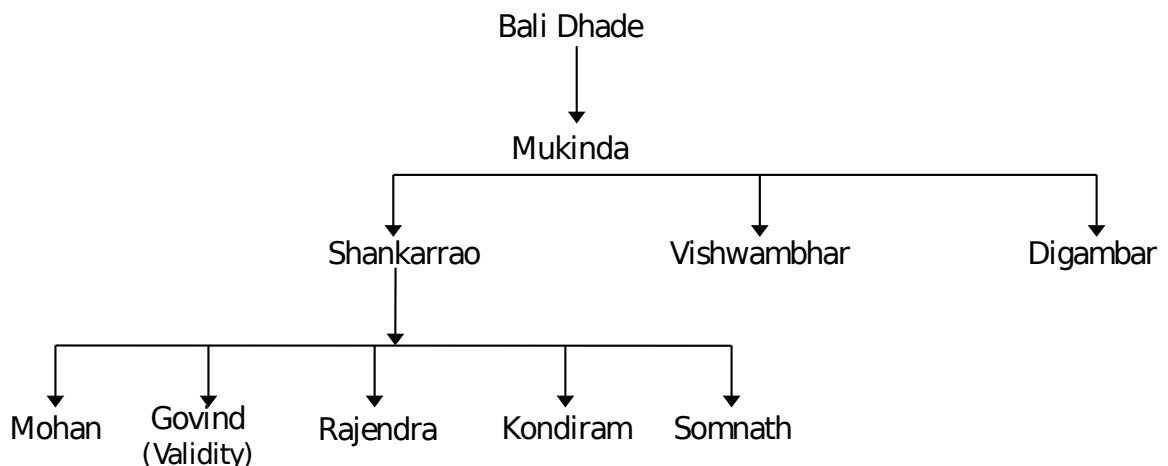
5. Learned AGP assisted by the Law Officer of the scrutiny committee strongly opposes the petition. He submits that there is enormous contrary record, wherein petitioner's blood relatives have been described as 'Hindu Koli'. All the favourable entries are dubious and were found to have been manipulated. He would also submit that the genealogy furnished by Govind in his matter and supported by affidavit in the petitioner's matter, did not match. He submits that the committee has formed an opinion that Govind has obtained the validity by practising fraud and has decided to re-open his case for recalling validity and the petition be dismissed.

6. We have considered the rival submissions and perused the original file of the petitioner maintained by the committee.

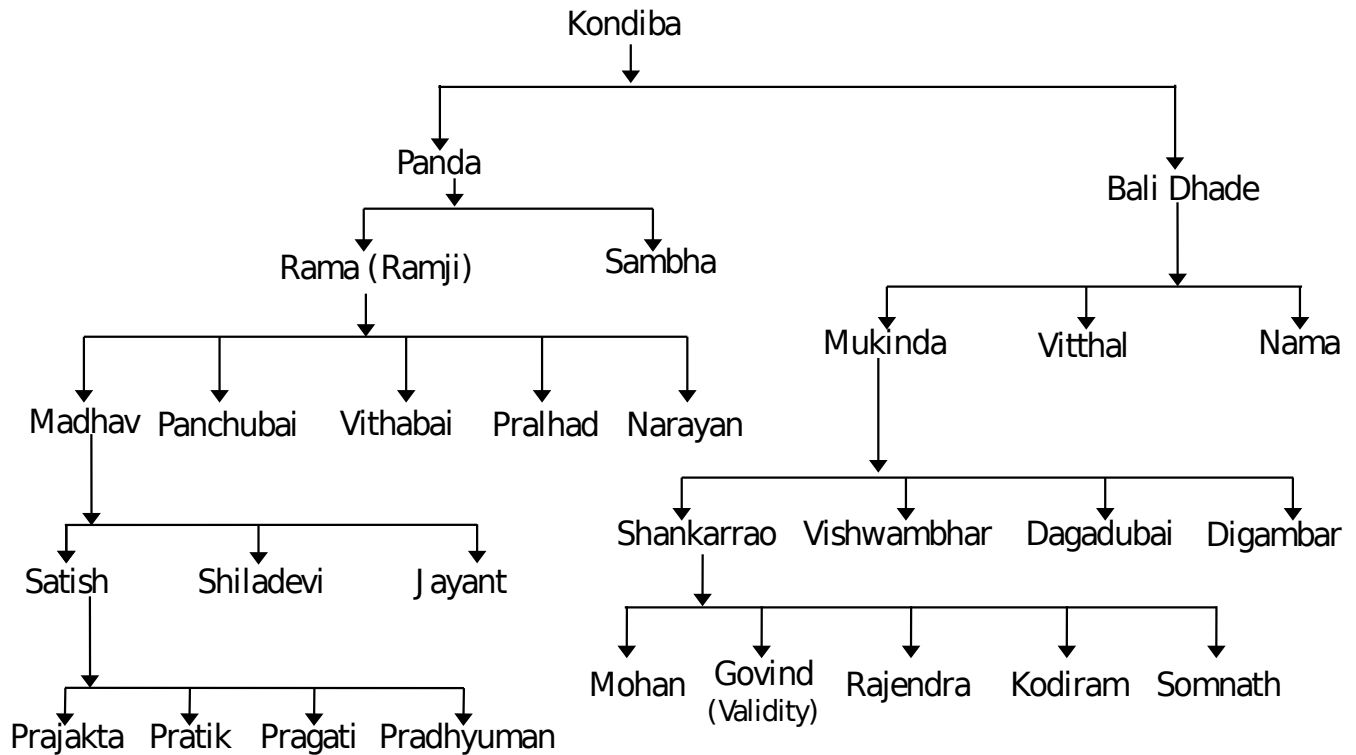
7. True it is that the committee has assigned few reasons rather plausible ones to reach a conclusion regarding some manipulation in the school record traced out during the course of vigilance enquiry. If it has decided on the basis of perfunctory inference about Govind having obtained certificate of validity by practising fraud, by actively concealing the contrary record. It will have to undertake a process for recalling his validity. The learned AGP informs that already the committee has been undertaking that enquiry and has not been able to conclude it for want of co-operation from Govind.

8. The fact remains that till Govind's validity is recalled successfully, it would be legally enforceable and the matter would merely be confined at this juncture for ascertaining whether Govind is related to the petitioner by blood from paternal side.

9. In his own tribe claim, Govind had furnished following genealogy :-



10. By filing affidavit in support of the petitioner, Govind has come out with following genealogy before the committee



A plain comparison of these two genealogies would merely indicate that the genealogy furnished by Govind in his matter (first) is restricted to the family of which common ancestor was Bali Dhade, whereas, in the petitioner's matter, the genealogy furnished by Govind (second), is an extended genealogy of which the common ancestor was Kondiba having two sons Panda and Bali Dhade. Bali Dhade is the ancestor of Govinda and Panda is ancestor of the petitioner. It is, therefore, evident that this second genealogy, by no stretch of imagination can be said to be incompatible with the former. The first one is a shorter one and latter is a comprehensive one.

11. The committee has conspicuously omitted to reach a conclusion that Govind is not related to the petitioner by blood. It has merely demonstrated these two genealogies and seems to have entertained a doubt. Surprisingly, in the list of documents compiled and reproduced in the impugned judgment and order, the committee has conveniently decided to use the contrary school record of Govind, wherein he was described as 'Hindu Koli', as a circumstance to disprove the petitioner's claim. Meaning thereby that in one breath, the committee is using the school record of Govind against the petitioner and in the other breath, is entertaining a doubt about the blood relationship between the two.

12. Again, this very record including the contrary record of the petitioner's relatives, who are falling in the branch of Panda, is being relied on by the committee to attribute fraud on the part of Govind by observing that he had actively concealed such contrary record.

13. In the light of such circumstances, we are of the view that the observations and the conclusion of the committee in entertaining a doubt about the petitioner being related to Govind by blood from the paternal side is merely based on surmises and conjectures and are rather, perverse and arbitrary.

14. Since Govind was issued with a certificate of validity by following due process of law and by a reasoned order, till the time the

committee successfully recalls the validity, the petitioner being related to him by blood, is entitled to derive the benefit of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others; 2023 SCC Online SC 326.***

15. True it is that during the course of enquiry, the committee seems to have reduced something in writing and has obtained petitioner's signature thereon, in all probability, to fasten him with the relationship with the individuals whose contrary school record has been pitted against him. In our considered view, the Maharashtra Act No. XXIII of 2001 and the rules framed thereunder nowhere prescribes any action for any such writing to be obtained from the claimant. There is not even signature of any member of the committee or its seal on this writing dated 08.05.2018. Its contents are written apparently in a different ink and handwriting than in which the petitioner's father's signature appears below this writing.

16. Be that as it may, when the petitioner is ready to run the risk of facing the consequences as laid down in ***Shweta Balaji Isankar*** (supra). When admittedly, the committee is yet to recall the validity of Govind, the petitioner is entitled to have a certificate of validity co-terminus with that of Govind's one.

17. The writ petition is partly allowed.

18. The impugned order is quashed and set aside.

19. The respondent - committee shall immediately issue tribe validity certificate to the petitioner as belonging to 'Koli Mahadev' scheduled tribe in the prescribed format without adding anything. The validity shall be co-terminus with the validity of Govind Shankar Dhade, which the committee has decided to re-open.

20. The petitioner shall not be entitled to claim equities.

[PRAFULLA S. KHUBALKAR]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/