



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

927 WRIT PETITION NO. 12868 OF 2024

Ankush Sahebrao Nirawar
Age : 29 years, Occ. :Student
R/o.A/P.Rahati, Post Bothi,
Tq.Bhokar, Dist.Nanded

...Petitioner

VERSUS

1. The State Of Maharashtra,
Through Its Secretary,
Tribal Development Department,
Mantralaya, Mumbai-32.

2. The Scheduled Tribe Certificate Scrutiny Committee,
Kinwat Division, Aurangabad,
Through its Member Secretary.

3. Sub-Divisional Magistrate,
Bhokat,Dist.Nanded.

...Respondents

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Advocate for the Petitioners: Mr.Golegaonkar Madhur A.
A.G.P for Respondent/State : Mrs. K.B.Patil-Bharaswadkar

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928 WRIT PETITION NO. 12877 OF 2024

Yogesh Sahebrao Nirawar
Age : 27 years, Occ. :Student
R/o.A/P.Rahati, Post Bothi,
Tq.Bhokar, Dist.Nanded

...Petitioner

VERSUS

1. The State Of Maharashtra,
Through Its Secretary,

Tribal Development Department,
Mantralaya, Mumbai-32.

2. The Scheduled Tribe Certificate Scrutiny Committee,
Kinwat Division, Aurangabad,
Through its Member Secretary.

3. Sub-Divisional Magistrate,
Bhokat, Dist. Nanded.

...Respondents

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Advocate for the Petitioners: Mr. Golegaonkar Madhur A.
A.G.P for Respondent/State : Mr. S.B. Pulkundwar

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**CORAM : R.G. AVACHAT AND
ABASAHEB D. SHINDE, JJ.**

DATE : 23.09.2025

PER COURT :

. Heard.

2. Both these petitions are taken up together since challenge therein is to the one and same order, whereby Tribe claims of the petitioners have been invalidated by the Respondent/Scrutiny Committee.

3. The petitioners claim to have belonged to 'Mannervarlu' Scheduled Tribe. The Learned Advocate for the petitioners mainly rely on the validity certificates granted in favour of the petitioners Uncle- Venkat and his two sons viz. Gajanan and Prashant. He also relies on entry in the revenue record of the year 1356 Fasli (1946 A.D) and the Sale Deed executed way back in the year 1943, wherein the petitioners forefathers have been described as 'Mannervarlu'. According to Learned Advocate for the petitioners, the Scrutiny Committee ought to have relied on pre-

constitutional period documents and granted the petitioners, validity certificates. He, therefore, urged for allowing the Writ Petition.

4. The learned A.G.P's took us through the file of Venkat on whose validity certificate, the petitioners relied upon. In the said file, statement of one Shankar Venkoba Nirawar was referred and relied upon. Shankar in his statement dated 23.01.2023 claims to have no real uncle. According to Learned A.G.P's, the petitioners claim to be from the distant families. Since, Shankar was in no way related to the petitioners grandfathers, the petitioners could not foist relationship with the validity holder- Venkat and his two sons viz. Gajanan and Prashant. According to Learned A.G.P's, this statement goes to the root of the matter. This was in the file of Venkat. Learned Advocate for the petitioners has also relied on those statement and therefore, although the Scrutiny Committee has not referred to his statement in the order impugned herein, the same could very well be taken into consideration by this Court even while dealing with the matters under Article 226 of the Constitution of India. According to them, the matters may be remitted back to the Scrutiny Committee so as to establish the relationship with Shankar and other validity holders.

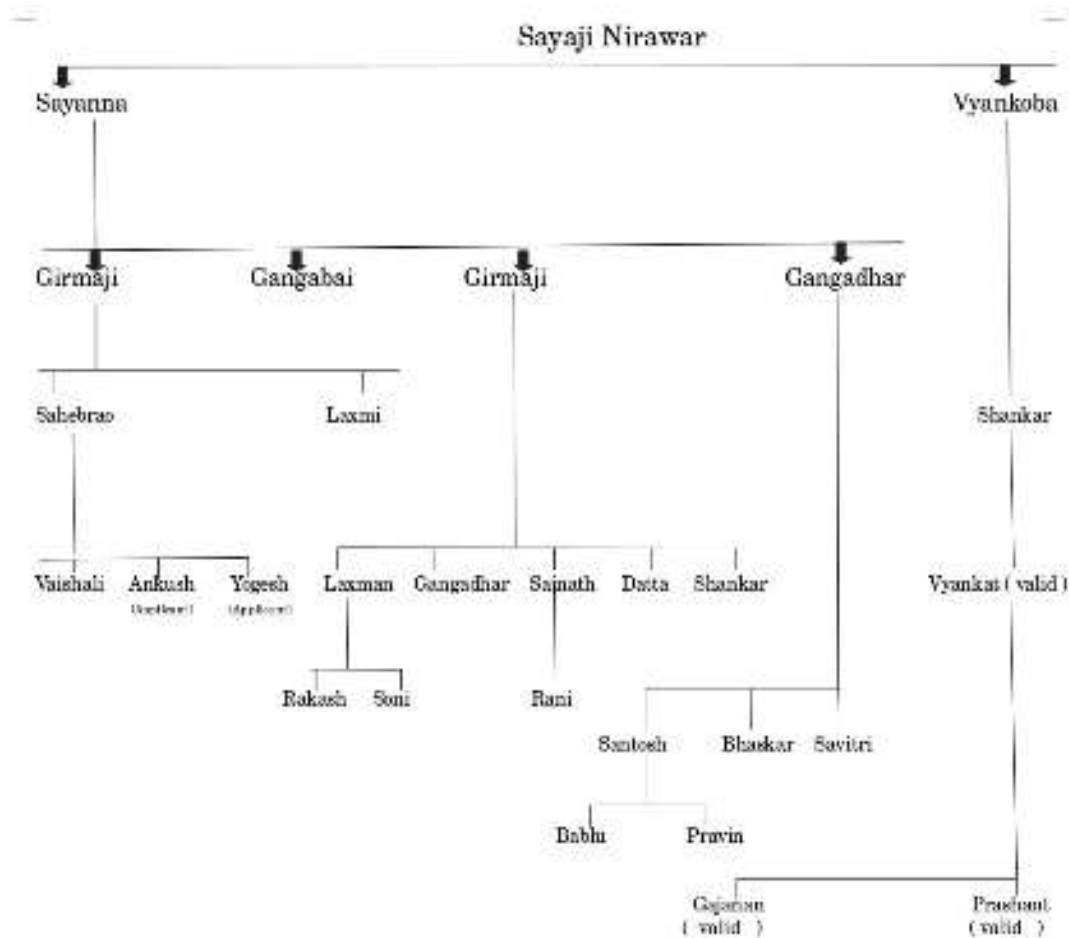
5. The Learned Advocate for the petitioners countered this submissions. According to him, the Scrutiny Committee is a quasi-judicial authority. The Committee itself has admitted the relationship of the petitioners with Shankar. The Learned A.G.P's could not turn around, more so when they represent the very Scrutiny Committee. According to him, the Learned A.G.P ought to have placed on record written submissions so as to enable the petitioners to meet their stand. He would further submit that at

least, the conditional validities could be granted to the petitioners. A direction may be issued to those, whose cases are proposed to be reopened, to co-operate with the Scrutiny Committee. When the petitioners may place on record, Affidavits of those validity holders and undertaking to co-operate with the Scrutiny Committee to take the matters, proposed to be reopened, to the logical conclusion. All in all, according to Learned Advocate for the petitioners, the grounds which have been raised before this Court for the first time and that too of a fact, which was infact admitted by the Scrutiny Committee in its decision, is now proposed to be reopened by making a complete U turn. According to him, the same is impermissible in law. Learned Advocate for the petitioners would further submit that, Committee, after accepting the relationship of the petitioners with the validity holders, has proposed to reopen the cases of the validity holders, itself indicates that the Scrutiny Committee, has admitted the relationship between these two families and therefore, it can not now turn around to disown the relationship between these two families.

6. We have considered the submissions advanced. Perused the impugned order herein. The first validity certificate issued in favour of Venkat is on record. We have perused the same.

7. We do not propose to dwell at length on the merits of the matter since we proposed to remand the matter back to the Scrutiny Committee. If we deal with the matter on its own merits, it may influence the Scrutiny Committee while considering the same on remand.

8. The petitioners herein have placed before the Scrutiny Committee following genealogy :



9. The petitioners relied on the validity certificates granted in favour of Vyankat Shankarrao Nirawar and his two sons. According to learned Advocate for the petitioners, the Vigilance Officer and the Scrutiny Committee did not dispute the relationship between the petitioners' forefathers and branch of Vyankat. It may be true that the point raised by learned A.G.P. before us was not on the mind of the Scrutiny Committee while the matter was being decided. It is a matter of common knowledge that the members of the Scrutiny Committee are not expert in law. The concept of admissions under the Evidence Act may be alien or foreign to them. The fact is that, the statement of Shankar finds place in the file of

Vyankat. The said statement has been referred to by both, the learned Advocate for the petitioners and the learned A.G.P. as well before us. The learned Advocate for the petitioners, therefore, now could not be heard to say that statement of Shankar should not be considered by this Court since the Scrutiny Committee did not refer it while appreciating the matter before it. At the cost of repetition, it is observed that, the members of the Scrutiny Committee may not be knowing the niceties of legal principles. The enquiry although said to be quasi-judicial in nature, it appears to be not adversarial since the witnesses examined are not subjected to cross-examination before the Scrutiny Committee although the Rules prescribe application of the provisions of the Civil Procedure Code. So far we have not come across any proceeding wherein the witnesses examined by the claimants were either subjected to cross-examination by the Vigilance Officer or anybody on behalf of the State. As such, what appears is that, whatever material is placed on record by the petitioners or collected during Vigilance enquiry is only appreciated without there being any cross-check thereof.

10. In the case in hand, the statement of Shankar Vyankat Nirawar was very much before the Scrutiny Committee. He has, in his statement, claimed that his father did not have a real brother. The same suggests that, Shankar disowned any relationship with the petitioners herein. It was tried to be contended that, this Court, while dealing with the matters under Article 226 of the Constitution of India, cannot travel beyond the compass of the matter which was before the Scrutiny Committee. To some extent, the submission may be correct. The fact is, however, that, the material which was very much before the Scrutiny Committee, has missed the

attention of the Scrutiny Committee which has now been brought to our notice. In these circumstances, how this Court can turn a nelson's eye towards the same. Since Shankar, in whose favour the validity has been granted, claims not to be relative of the forefathers of the petitioners, it is incumbent on the petitioners to establish relationship with Shankar and consequently the validity holders.

11. At this juncture, the learned Advocate for the petitioners would submit that, the matter may be deferred and the petitioners may be given an opportunity to meet the issue raised by the learned A.G.P. He meant to say that, the petitioners may place on record of this Court affidavit of Shankar, explaining his relationship with the petitioners and their forefathers. In our view, this is a question of fact and that could only be gone into by the Scrutiny Committee. The matter, therefore, deserves to be remitted back. What kind of opportunity is sought to be availed by the petitioners before this Court can very well be availed before the Scrutiny Committee and, therefore, we are not inclined to defer the matter as well.

12. In the result, the Writ Petition partly succeeds. Hence, the order :

ORDER

- (i) The Writ Petitions are partly allowed.
- (ii) The orders impugned herein are set aside.
- (iii) The Scrutiny Committee shall give the petitioners full opportunity of adducing material

and examining the witnesses so as to establish their relationship with the validity holders and consequential with that of Vyankat Shankarrao Nirawar.

(iv) The exercise shall be completed within a time-frame of six months from the date of receipt of copy of this order.

(ABASAHEB D. SHINDE, J.)

(R.G. AVACHAT, J.)

vsj..