



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

908 REVIEW APPLICATION (CIVIL) NO. 272 OF 2024
IN WP/13996/2021

Yash Kishor Bagul And Another

VERSUS

The State Of Maharashtra And Others

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Shri M. V. Thorat, Advocate for the Applicants
Shri S. V. Hange, AGP for Respondent Nos. 1 to 4

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CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.

DATE : 06.02.2025

ORDER (MANGESH S. PATIL, J.) :

- . We have heard both the sides and perused the records.
2. The original petitioners are seeking review of our judgment and order dated 11.11.2024, whereby we dismissed their petition and confirmed the order of the respondent/Scrutiny Committee refusing to validate their *Tokre Koli*, Scheduled Tribe certificate.
3. Though there are circumscribing limits in exercising the review jurisdiction in the normal course, we cannot lose sight of the fact that the proceeding in the instant matter is regarding social status and not an adversarial litigation. In our considered view, all the parameters which are otherwise applicable for invoking review

jurisdiction, may not be applicable strictly within the four-corners of law. A pragmatic view can possibly be taken depending upon the peculiar facts and circumstances obtaining in individual cases of this kind.

4. True it is that by virtue of Section 9 of the Maharashtra Act No. XXIII of 2001, the primary burden is on the claimant to substantiate the claim for validation of the tribe certificate. However, simultaneously, it is a duty cast upon the Scrutiny Committee constituted thereunder, to examine the claim pragmatically by resorting to the mechanism provided under the Act and the rules framed thereunder.

5. It is evident that the petitioners have been heavily relying upon the birth record of their ancestors of the years 1912 and 1935, which has been discarded by the committee and we have substantiated that inference in the order under review.

6. However, it is now being brought to our notice that the vigilance inquiry was conducted and the officer had not entertained any doubt about genuineness of both the birth entries. Even the committee while discarding it, merely observed that except the two pages on which the relevant entries could be found of the years 1912 and 1935, the rest of the pages were in '*Devnagari*' which inference

has weighed with us while passing the order under review.

7. It is now being pointed out by the learned advocate for the petitioners that they had approached the office of Tahasildar concerned and could obtain a fresh certification about genuineness of the birth and death record maintained by his office, wherein both these entries could be found. It is in the light of such supervening event, the learned advocate for the petitioners is making a request to review the judgment and order and remand the matter back to the Scrutiny Committee for fresh adjudication.

8. As we have observed earlier, it is a matter of social status. If the new evidence substantiates the petitioners' claim on the basis of the birth and death record maintained in the ordinary course by the office of Tahasildar and which has even now again issued certified copies further vouching about its genuineness, in our considered view, the technicalities should not come in the way of the claimants. It would be appropriate that the committee examines these two entries in the light of the above observations and reaches some inference in accordance with law and based thereon, can decide the matter afresh, particularly in the light of the fact that the oldest entry would be of birth record of Daga Bap Nathu of the year 1912, whose probative value would be greater than the subsequent contrary

record.

9. In view of the above, we allow the review application. The writ petition is also allowed partly.

10. The impugned order of the committee is quashed and set aside.

11. The matter is remitted back to the committee for decision afresh, by extending an opportunity to the petitioners to substantiate the claims on the basis of additional evidence. The committee may resort to further vigilance inquiry if it thinks fit. It shall decide the claims afresh on all counts.

12. The petitioners shall appear before the committee on 21.02.2025.

(SHAILESH P. BRAHME, J)

(MANGESH S. PATIL, J.)

Komal/