



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

WRIT PETITION NO.400 OF 2024

Rushikesh Bibhishan Bodhwad
Age 26 years, Occ. Pre-service
Residing C/o Vidyanagar (W),
Near Mane Complex, Beed,
Tal. Beed, Dist. Beed

... PETITIONER

VERSUS

1. The State of Maharashtra
through its Secretary, Tribal
Development Department,
Mantralaya, Mumbai – 400 032
2. Scheduled Tribe Certificate
Scrutiny Committee,
Aurangabad Division, Aurangabad
through its Member Secretary,
having its office at CIDCO,
Aurangabad, Dist. Aurangabad
3. Secretary, Agriculture, Animal
Husbandry, Dairy Development
and Fisheries Department,
Government of Maharashtra
Mantralaya, Mumbai – 400 032
4. Commissioner (Agril.),
Commissionerate of Agriculture,
Maharashtra State, Pune
5. Amit Fulchand Tumdam,
Age adult, Occupation : Student,
Residing at Fulzari, Post Hiwara
Bazaar, Tal. Ramtek,
Dist. Nagpur

... RESPONDENTS

.....
Mr. R.K. Mendodkar, Advocate holding for
Mr. A.S. Bayas, Advocate for petitioner
Mr. A.S. Shinde, 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
.....

**CORAM : R.G. AVACHAT AND
SANDIPKUMAR C. MORE, JJ.**

DATE : 26th MARCH, 2025

ORAL JUDGMENT (PER R.G. AVACHAT, J.) :

Rule. Rule made returnable forthwith. With the consent of learned counsel for the parties, heard finally.

2. The petitioner has filed the present petition for the following main reliefs :-

- “(a) This Hon’ble Court be pleased to issue writ of certiorari and/ or any the writ, order or direction in the nature of certiorari thereby quashing and setting aside the impugned order dated 13/12/2023 passed by the respondent No.2 Committee with further direction to respondent No.2 Committee to issue certificate of validity in relation to caste certificate dated 30/4/2015 issued by the competent authority of jurisdiction.
- (b) That this Hon’ble Court be pleased to hold and declare that the caste certificate dated 30/4/2015 issued to the petitioner by the competent authority of jurisdiction is valid, legal and subsisting.”

3. The petitioner claims to have belonged to Koli Mahadev Tribe (Scheduled Tribe). On the strength of tribe

certificate granted in his favour by the competent authority on 30/4/2015, he secured a job as a Deputy Director of Agriculture, Grade-A through competitive examination held by Maharashtra Public Service Commission (MPSC). That time, he was only holding the tribe certificate, which was not then validated. His certificate was pending before the Scheduled Tribe Certificate Scrutiny Committee (for short, Scrutiny Committee) for validation since 2005. It appears that, the respondent No.5 herein, who was recruited to the post of Taluka Agricultural Officer through the same competitive examination, had made a complaint to the Scrutiny Committee and other authorities as well, alleging the petitioner to have obtained the tribe certificate fraudulently. The Scrutiny Committee, after having followed the due process/ procedure prescribed under 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 Act, 2000 (for short the Act of 2000) and the Rules, came to the conclusion not to grant validity to the tribe certificate of the petitioner. The petitioner has, therefore, preferred the present petition.

4. The learned Advocate for the petitioner would submit that, the petitioner's father, uncle, paternal aunt and two sisters have been granted validity certificates. According to him, in one genetic family no two members can have two different castes. He relied on the judgment of this Court in case of **Abhishek Mahendra Umbarje Vs. State of Maharashtra etc. etc. (2022 SCC OnLine Bom 2858)** and a host of authorities, including the judgment of the Apex Court in case of **Maharashtra Adivasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra & ors. (2023 SCC OnLine 326)**, to contend that when the blood relation namely the father is holding a validity certificate, the Scrutiny Committee ought to have granted the petitioner validity of his certificate.

5. He would further submit that, the respondent No.5 did not have locus standi to intervene in the matter. The learned Advocate relied on the judgment in case of **Ayaaubkhan Noorkhan Pathan Vs. State of Maharashtra & ors. 92013) 4 SCC 465**, wherein it has been observed :

“The legal right that can be enforced must ordinarily be the right of the writ petitioner himself, who complains of infraction of such right and approaches the Court for relief as regards the same. Even as

regards the filing of a habeas corpus petition, the expression “next friend” means a person who is not a total stranger. Such a petition cannot be filed by one who is a complete stranger to the person who is in alleged illegal custody.

A “legal right” means an entitlement arising out of legal rules. Thus, it may be defined as an advantage, or a benefit conferred upon a person by the rule of law. The expression, “person aggrieved” does not include a person who suffers from a psychological or an imaginary injury, a “person aggrieved” must, therefore, necessarily be one whose right or interest has been adversely affected or jeopardised. Hence, a person who raises a grievance, must show how he has suffered legal injury. Generally, a stranger having no right whatsoever to any post or property, cannot be permitted to intervene in the affairs of others.”

6. He would further submit that, the judgment relied on by the learned Senior Counsel in case of **Chairman and Managing Director, Food Corporation of India & ors. Vs. Jagdish Balaram Bahira & ors. (2017) 8 SCC 670** would be of no help for them. He took us through paragraph No.69 of the judgment (conclusions) to submit as to how the same was distinguishable on facts. According to him, the judgment in case of **Jyoti Sheshrao Mupde Vs. State of Maharashtra & ors.** (Writ Petition No.1954/2009, decided on 22/8/2012) would also be of little consequence. He adverted our attention to paragraph No.7 of the said judgment, wherein the brother of the petitioner therein had suppressed the invalidity of the

certificate of his brother. On facts, the learned Advocate did not dispute the findings recorded in Jyoti Mupde's case.

According to him, the petitioner herein has placed each and every document or material which was with him. Therefore, there was no question of any misrepresentation or practicing fraud. He would further submit that, when the blood relations have been granted the validity and their cases are yet not been reopened since no notices have been served on any of them, those certificates stand the scrutiny held by the Committee and, therefore, the petitioner's tribe certificate ought to have been validated. He would further submit that, one Prakash Kokate had made a complaint, alleging the certificate of the petitioner's paternal aunt Meera to have been obtained by practicing fraud. The High Court remanded the matter to the Scrutiny Committee, which, after holding a due enquiry, again reaffirmed its decision. According to the learned Advocate, it is nothing short of the principle of *res judicata*. He then would submit that, the Committee for the first time relied on some factual matrix. This Court does not sit in appeal against the decision of the Scrutiny Committee. He brought to our notice the averments in paragraphs 6, 7 and 8 (Page 224

to 248-A) of the affidavit-in-reply. He would further submit that, some part of the Vigilance report has not been served upon the petitioner. According to him, the Scrutiny Committee did not apply its mind. He took us through certain paragraphs of the impugned order and compared the same with the Scrutiny Committee's judgment in case of one Lahu Mande, to point out that the same was verbatim reproduction from Lahu Mande's case. He would further submit that, the police official Mr. Hashmi gave Vigilance report, wherein he did not make any report as to interpolations. According to him, how come the subsequent report indicating some interpolations. According to him, when the validity certificate of his blood relation has been granted after a fullfleged enquiry, the petitioner ought to have been granted the same.

7. He would further submit that, considering the judicial propriety and the principle of parity, the petitioner is entitled for the validity of his tribe certificate. He urged for validating the same conditionally i.e. the same be validated until the validity certificates granted to his blood relations were cancelled/ recalled.

8. The learned A.G.P. and learned Advocate for the

intervener, on the other hand, countered the submissions, reiterating the reasons given by the Committee. Since their stand would be our reasons in support of this order, we do not wish to reproduce/ reiterate the same hereat.

9. Considered the submissions advanced. Perused the order impugned herein and the documents relied on. We have also considered the host of authorities wherein the validity has been granted to the petitioners therein since their blood relations were holding validity certificates. Each case has to be decided on the facts and circumstances obtainable therein. We wish to rely on paragraph Nos.22 and 23 of the Hon'ble Three Judge Bench judgment of the Apex Court in case of Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti (supra). For better appreciation, both the paragraphs are reproduced below :

“22. We can also contemplate one more scenario which is found in many cases. These are the cases where the applicant relies upon caste validity certificates issued to his blood relatives. Obviously, such a validity certificate has to be issued either by the Scrutiny Committee constituted in terms of the directions issued in Kumari Madhuri Patil's case¹ or constituted under the Rules framed under the 2000 Act. In such a case, firstly, the Scrutiny Committee must ascertain whether the certificate is genuine. Secondly, the Scrutiny Committee will have to decide whether

the applicant has established that the person to whom the validity certificate relied upon by him has been issued is his blood relative. For that purpose, the applicant must establish his precise and exact relationship with the person to whom the validity certificate has been granted. Moreover, an enquiry will have to be made by the Scrutiny Committee whether the validity certificate has been granted to the blood relative of the applicant by the concerned Scrutiny Committee after holding due enquiry and following due procedure. Therefore, if the Scrutiny Committee has issued a validity certificate contemplated in terms of the decision in the case of Kumari Madhuri Patil, the examination will be whether the enquiry contemplated by the said decision has been held. If the certificate relied upon is issued after coming into force of the 2000 Act, the Scrutiny Committee will have to ascertain whether the concerned Scrutiny Committee had followed the procedure laid down therein as well as in the ST Rules or the SC Rules, as the case may be. For this verification, the Scrutiny Committee can exercise powers conferred on it by Section 9(d) by requisitioning the record of the concerned Caste Scrutiny Committee, which has issued the validity certificate to the blood relative of the applicant. If the record has been destroyed, the Scrutiny Committee can ascertain whether a due enquiry has been held on the basis of the decision of the Caste Scrutiny Committee by which caste validity has been granted to the blood relative of the applicant. 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.

23. In a given case, the Scrutiny Committee may be satisfied that the caste validity certificate relied upon by the applicant has been issued after making a lawful enquiry. But if the Scrutiny Committee is of the view that the applicant has not clearly established that the person to whom caste validity certificate produced on

record has been granted is his blood relative, in terms of sub-rule (2) of Rule 12 of the ST Rules, the Caste Scrutiny Committee will have to refer the case for conducting an enquiry through Vigilance Cell. In such a case, the Vigilance Cell can be directed by the Scrutiny Committee to conduct an enquiry limited to the relationship claimed by the applicant with the person in whose favour the caste validity certificate has been issued. If, on the basis of the report of the Vigilance Cell, the Scrutiny Committee is satisfied that the person in whose favour caste validity certificate has been issued is a blood relative of the applicant and lawful enquiry has been conducted before issuing the validity certificate, the Scrutiny Committee will have to issue validity certificate even if the applicant does not satisfy the affinity test. For example, if it is established that the father or grandfather of the applicant has been given a caste validity certificate after holding a lawful enquiry in accordance with law, the Caste Scrutiny Committee cannot hold that the grandfather or father of the applicant, as the case may be, belongs to Scheduled Tribe but the applicant does not belong to Scheduled Tribe. Only if the relationship as pleaded by the applicant is not established, the other evidence produced by the applicant and the result of the affinity test can be taken into consideration by the Scrutiny Committee.”

10. The gist of the observations indicate that if the Scrutiny Committee had not granted validity certificate after conducting lawful and proper enquiry, then the Scrutiny Committee would be at liberty to invalidate the certificate of the concerned person who proposes to rely on the certificate issued to his blood relation. According to learned Advocate for the petitioner, the tribe certificate granted to his aunt Meera

was issued after fullfleged enquiry. The matter was again remanded back to the Scrutiny Committee and the same Vigilance report reaffirms the same. He meant to say that, there was compliance of what has been observed by the Apex Court in paragraph No.22 of the judgment.

11. Now let us turn to the factual matrix. It was the contention of the petitioner that, the copy of Vigilance Cell report was not supplied to him in its entirety. The fact is, however, other way round. In the reply submitted by the petitioner to the Vigilance Cell report in paragraph No.3 thereof, he conceded in so many words that in Column 3-B at Page 5 of the school record of his father, the entry "Hindu Kasari" was made due to illiteracy of his father. Admittedly, "Kasari" falls in O.B.C. category. The Scrutiny Committee, while passing the impugned order, has considered the entire material threadbare. It has specifically relied on the Vigilance Cell report. The entries from school record of the petitioner's father and his family members indicate that the word "महादेव कोळी", "मा. कोळी" was found to have been inserted later on. Our attention has been drawn to Item No.8 of the order impugned herein. Moreover, sub-clause (2) thereof also

records that entries in the school record of the persons of the similar surname from the very village were found to have been fabricated by inserting the word “Koli Mahadev”. It is true that, we may not rely on the material in relation to the other persons of similar surname. The fact, however, remains that in the school record the caste of the petitioner’s father was recorded as Hindu (Kasari) way back in June 1979. Same was case of his real uncle Abhiman. The entry in relation to him was made on 22/6/1984. The Committee has specifically observed that this material evidence was not before the Scrutiny Committee which granted validity to the petitioner’s father, uncle and aunt. The learned Advocate for the petitioner disputed the same. In the impugned order, the Committee has observed that the petitioner has relied on the validity certificates of his father and two sisters namely Sheetal and Jyoti. He did not rely on the validity certificate of his parental aunt Meera, although we find some reference thereto in the reasoning given by the Scrutiny Committee.

12. Since the Scrutiny Committee has opened the cases of the persons whose validity certificates have been relied on by the petitioner, we do not propose to place reliance

on those validity certificates. More so when the father's school record at the beginning i.e. while he was admitted to the school indicate that he claimed to have belonged to Hindu Kasari which falls in OBC category.

13. True, it may sound unreasonable that in the village, and particularly in the school record, person belonging to caste or community other than Kasari was not found. The Vigilance enquiry report in so many words spells out that the school record of the father, cousin grandfather, uncle and other blood relations as well was found to have been fabricated by interpolating therein the words "महादेव कोळी", "मा. कोळी" during the period from 1970 to even 1981–1984 as well. It is reiterated that, the petitioner, in response to the Vigilance report in relation to his father's school record, came with a stand that, due to illiteracy, the caste was shown as, "Kasari". This explanation is not acceptable in view of there being voluminous record, which speaks otherwise.

14. So far as regards allegations as regards copy-paste are concerned, though we may agreed to some extent, it needs to be mentioned that the members of Scrutiny Committee were not experts in law. Reproduction of some

material from other order would be of little consequence. More so, the material relief on, or placed on record during the Vigilance enquiry speaks in volumes that the blood relations who obtained validity certificates did not place on record before the Scrutiny Committee the school record indicating the petitioner's father to have belonged to "Kasari" caste.

Locus standi of Respondent No.5 :-

15. We do not propose to dwell at length on this point since the petitioner himself had made the respondent No.5 as party respondent. Moreover, on the issue of locus-standi only, the petition was not to be disposed of. The petition is required to be decided on its own merits. The submissions made by learned counsel for respondent No.5 would, therefore, be in the nature of assistance to the Court.

16. After going through reasons given by the Scrutiny Committee, we find the same is consistent with the material on record. In the peculiar facts and circumstances of the case, we are not inclined to interfere with the order impugned herein. In the result, the Writ Petition fails. It is dismissed. Rule discharged.

17. At this stage, learned Advocate for the petitioner submits that, the ad-interim relief is operating in this matter. The same be continued for a period of eight weeks. In view of the same, the interim relief to continue for a period of next eight weeks.

(SANDIPKUMAR C. MORE, J.)

(R.G. AVACHAT, J.)

fmp/-