

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.7761 OF 2015

Gangabai Laxman Bandagar,
Aged years, residing at
Mitra Nagar, Shelgi, Tal. Solapur,
Dist. Solapur

....**Petitioner**

VERSUS

1. State of Maharashtra
Through its Secretary,
Social Justice Department,
Mantralaya, Mumbai-32.
 2. Divisional Caste Certificate Scrutiny
Committee No.1, Solapur through its
Member Secretary having its office
at Dr Babasaheb Ambedkar Samajik
Nyay Bhavan, Opposite Afajalpurkar
Mangal Karyalaya, Seven Rasta,
Solapur, Dist. Solapur.
 3. Mahatma Phule Krishi Vidyapeeth
Rahuri, Dist. Ahmednagar
Through its Registrar, having its
Office at Rahuri, Dist.Ahmednagar
 4. Superintendent, Krishi Vidyalaya
Solapur, Dist. Solapur.
- ...**Respondents**

Mr. Jagdish G. Aradwad (Reddy) a/w Ms. Ashwini B. Jadhav,
Advocate for the Petitioner.

Mr. V.M. Mali, AGP for the Respondent Nos.1 & 2.

None present for Respondent Nos.3 & 4.

**CORAM : RAVINDRA V. GHUGE
&
ASHWIN D. BHOBE, JJ.**

**RESERVED ON : 03rd APRIL, 2025
PRONOUNCED ON : 09th May, 2025**

ORDER (PER ASHWIN D. BHOBE, J.)

1. We have heard Mr. Jagdish G. Aradwad (Reddy), learned Advocate for the Petitioner and Mr. Vikas M. Mali, learned AGP for the Respondent Nos.1 and 2.

2. By the present petition under Article 226 of the Constitution of India, the Petitioner questions the judgment and order dated 29.06.2015, passed by the Respondent No.2 Committee, invalidating the Petitioner's Caste Certificate and consequently, canceling and confiscating the same.

3. The Petitioner claims to be belonging to the Dhargar Caste. The Petitioner was born on 01.07.1959 at village Balvali, Taluka Indi, District Bijapur, which was part of the then Bombay State.

4. The Bombay Re-Organization Act, 1960 came into force in relation to the State of Maharashtra, on 01.05.1960.

5. In the year 1975, the Petitioner got married to one Mr. Laxman Tukaram Bandagar, who is a permanent resident of Mitra Nagar, Shelgi, Taluka and District Solapur.

6. On 19.02.1986, the Government of Maharashtra issued a Resolution declaring Dhangar Caste as Nomadic Tribe and listed it at serial No.NT-29.

7. In the year 1989, Petitioner was appointed as Mazdoor with Respondent No.3. The Deputy Collector and Special Land Acquisition Officer No.11, Solapur, issued a Caste Certificate to the Petitioner certifying that the Petitioner belongs to Dhangar NT-29 Caste in view of the Government Resolution dated 19.02.1986.

8. On 02.11.2004, Petitioner was made a permanent employee as Mazdoor by the Respondent No.3. Respondent No.3 on 27.04.2012, submitted the caste claim of the Petitioner for verification to the Respondent No.2-Committee. Petitioner submitted various documents as well as affidavit of family tree in support of her caste claim to the Respondent No.2-Committee. Vigilance Cell submitted its report to the Respondent No.2-Committee on 29.11.2013.

9. Show Cause Notice dated 29.01.2014 was issued to the Petitioner calling upon the Petitioner to explain as to why, her caste claim of belonging to “Wani Caste” should not be invalidated. Petitioner filed her reply to the Show Cause Notice pointing out that she claims of belonging to Dhangar Caste and not Wani Caste, as mentioned in the Show Cause Notice.

10. By the order dated 29.06.2015, the Respondent No.2-Committee has rejected the caste claim of the Petitioner of belonging to Dhangar (NT-29) caste (for short **“impugned order”**). Ground for rejection in the impugned order is that the Petitioner is a migrant.

11. Petitioner has retired from service on 31.01.2020, upon attaining the age of superannuation. Pensionary benefits of the Petitioner have not been paid.

12. On 02.09.2020, the Caste Scrutiny Committee, Solapur had issued Caste Validity Certificate to Sagai Chandrakant Birappa, who is the son of Sagai Adveppa Shivappa, i.e, the real brother of the Petitioner.

13. Petitioner by the present petition has sought for the following substantial reliefs:

“(a) This Hon’ble Court be pleased to issue Writ of Certiorari and or any other Writ, Order or Direction in the nature of Certiorari thereby quashing and setting aside the impugned judgment and order dated 29-6-2015 passed by the Respondent No.2 Committee with further direction to Respondent No.2 committee to issue certificate of validity in respect of caste certificate dated 9-2-2004 issued by the Deputy Collector, Solapur.

(b) That this Hon’ble Court be pleased to hold and declare that the caste certificate dated 9-2-2004 issued to the petitioner by the Deputy Collector, Solapur is valid, legal and subsisting.

(c) That this Hon’ble Court further be pleased to hold and declare that the petitioner is not migrant in the State of Maharashtra by virtue of marriage and therefore, she is entitled to all benefits as to caste as belonging to Dhangar, Nomadic Tribe.”

14. Mr. Jagdish G. Aradwad (Reddy), learned Advocate for the Petitioner submits that on the date of birth of the Petitioner, village Balvali, Taluka Indi, District Bijapur was a part of Bombay State and after the Bombay Re-Organization Act, 1960 w.e.f. 01.05.1960, village Balvali, Taluka Indi, District Bijapur (birthplace of the Petitioner) was included in the State of Karnataka, which is also a subject matter of dispute in a suit filed by the State of Maharashtra and the State of Karnataka and hence, the Petitioner cannot be treated as a migrant. He submits that Petitioner is a permanent resident of the State of Maharashtra since marriage in the

year 1975 and that the Petitioner has not settled in the State of Maharashtra for either educational or service purpose. He further submits that the Respondent No.2-Committee has not considered the caste claim of the Petitioner on merits and has merely invalidated the caste claim on the ground of Petitioner being a migrant, which is erroneous. He submits that the paternal side relative of the Petitioner, i.e, Petitioner's real brother son, having been issued Caste Validity Certificate, the Petitioner's claim is required to be validated on the said basis.

15. Mr. V.M. Mali, learned AGP for Respondent Nos.1 and 2 has supported the impugned order.

16. The issue as raised in the present petition is no more res-integra. The Hon'ble Supreme Court in the case of *Sudhakar Vithal Kumbhare Versus State of Maharashtra and Others*,¹, has considered a similar issue. In paragraph nos. 4 and 5, has held as follows :-

“4. It is no doubt true that a Scheduled Tribe notified in one State may not be given the benefits therefor in another State having regard to the plain expression “in relation to that State” in Article 342 of the Constitution. (See Action Committee on Issue of Caste Certificate to Scheduled Castes and Scheduled Tribes in the State of Maharashtra v. Union of India and U.P. Public Service

¹ (2004) 9 SCC 481

Commission v. Sanjay Kumar Singh”

5. But the question which arises for consideration herein appears to have not been raised in any other case. It is not in dispute that the Scheduled Castes and Scheduled Tribes have suffered disadvantages and been denied facilities for development and growth in several States. They require protective preferences, facilities and benefits inter alia in the form of reservation, so as to enable them to compete on equal terms with the more advantaged and developed sections of the community. The question is as to whether the appellant being a Scheduled Tribe known as Halba/Halbi which stands recognized both in the State of Madhya Pradesh as well as in the State of Maharashtra having their origin in Chhindwara region, a part of which, on States' reorganisation, has come to the State of Maharashtra, was entitled to the benefit of reservation. It is one thing to say that the expression “in relation to that State” occurring in Article 342 of the Constitution of India should be given an effective or proper meaning so as to exclude the possibility that a tribe which has been included as a Scheduled Tribe in one State after consultation with the Governor for the purpose of the Constitution may not get the same benefit in another State whose Governor has not been consulted; but it is another thing to say that when an area is dominated by members of the same tribe belonging to the same region which has been bifurcated, the members would not continue to get the same benefit when the said tribe is recognized in both the States. In other words, the question that is required to be posed and answered would be as to whether the members of a Scheduled Tribe belonging to one region would continue to get the same benefits despite bifurcation thereof in terms of the States Reorganisation Act. With a view to find out as to whether any particular area of the country was required to be given protection is a matter which requires detailed investigation having regard to the fact that both Pandhurna in the district of Chhindwara and a part of the area of Chandrapur at one point of time belonged to the

same region and under the Constitution (Scheduled Tribes) Order, 1950 as it originally stood the tribe Halba/Halbi of that region may be given the same protection. In a case of this nature the degree of disadvantages of various elements which constitute the input for specification may not be totally different and the State of Maharashtra even after reorganisation might have agreed for inclusion of the said tribe Halba/Halbi as a Scheduled tribe in the State of Maharashtra having regard to the said fact in mind.”

17. This Court in the case of *Kumar Hanumant Mane Versus The State of Maharashtra and Others*,² by placing reliance on the judgment of the Hon'ble Supreme Court in the case of *Sudhakar Vithal Kumbhare (supra)* in paragraph nos. 5 and 6, has observed as under:

“5] It could thus be seen that the Hon'ble Apex Court has held that if prior to the re-organization of the States, the area in which a candidate originally resides and the area where he is migrated, were in the same State and if the Caste/Tribe is notified as Scheduled Caste or Scheduled Tribe in both the State, then such a candidate cannot be denied the benefit of belonging to that category.

6] Undisputedly prior to the re-organization of the States, both Chikodi taluka in Belgaum district and Kolhapur were the part of State of Bombay. Only after the re-organization, Kolhapur district has come in the State of Maharashtra, whereas Chikodi taluka in Belgaum district is in the State of Karnataka. A judicial note is also taken of the fact that there is long standing agitation by the residents of Belgaum district for their inclusion in the State of Maharashtra.”

² Writ Petition No.1154 of 2018 decided on 12.10.2018

18. In the case of *Sunita Dasu Rathod @ Smt. Kiran Krushna Pawar Versus State of Maharashtra & Ors.*³, this Court in paragraph nos.3, 4 and 5, has observed as under:

“3. After the Committee heard the petitioner and on consideration of the material on record, the Scrutiny Committee has held that the petitioner's caste certificate could not be validated as she was a migrant. The Committee has found that the petitioner's father migrated to the State of Maharashtra for earning his livelihood in the year 1959 and that her forefathers were residents of Karnataka State. The Committee held that no documentary evidence was produced to establish that the petitioner's family's permanent place of residence was in Maharashtra prior to 1961. The Committee noted that villages in which the petitioner's father had been a resident were not part of the State of Maharashtra and, therefore, though the petitioner did belong to the Lamani caste which was recognized a Vimukta Jati in this State, she was not entitled to any concession meant for that caste in the State of Maharashtra.

4. The petitioner has contended that several years ago her grandfather lived in Jalwal, Taluka Singhi, Dist. Bijapur which is now in the State of Karnataka. Her father moved to Dokrawali, which is now in the State of Maharashtra, about 50 to 60 years ago and worked as a labourer. According to the petitioner, the District of Bijapur was in the original State of Bombay and therefore she cannot be considered as a migrant. It is submitted on behalf of the petitioner that, had the District of Bijapur not been in the State of Bombay prior to the enactment of the States Reorganization Act of 1956, it could be said that he she was a migrant. It is therefore submitted that since the petitioner's grandfather lived in Bijapur, a part of the erstwhile State of Bombay prior to 1956, she cannot be regarded

³ Writ Petition No.9712 of 2011 decided on 24.11.2011

as a migrant.

5. It appears from the record that the petitioner's family migrated to Maharashtra from Bijapur which is now in the Karnataka State. Unfortunately, the Committee was under the mistaken motion that Bijapur was not a part of the State of Bombay prior to the reorganization of the States in 1956 under the aforesaid Act. In our opinion, therefore, the Committee has committed a serious error by not considering whether the petitioner was entitled to the concession available for the Lamani caste in the State of Maharashtra.”

19. In view of the above legal position, we find that the Respondent No.2-Committee has committed a serious error in the impugned order by rejecting the caste claim of the Petitioner on the ground of she being a migrant.

20. In normal circumstances, the impugned order being set aside, the corollary would have been to remand the matter for adjudication of the caste claim of the Petitioner on merits, however, considering that the Petitioner has retired from service on 31.01.2020 and her pensionary benefits have been withheld for want of Caste Validity Certificate and in view of the Petitioner's paternal side blood relative being issued Caste Validity Certificate, as belonging to Dhangar (NT-29) by the Caste Scrutiny Committee, Solapur, we proceed to consider the case of the Petitioner on merits.

21. Petitioner has filed affidavit dated 19.06.2021 and has appended Certificate of Validity bearing no. A 2448026 dated 13.07.1999 issued by the Deputy Commissioner Social Welfare, Caste Certificate Scrutiny Committee, Solapur certifying that Sagai Chandrakant Birappa belongs to Dhargar NT-C-29 caste. In paragraph no.7 of the said affidavit dated 19.06.2021, the Petitioner has made the following statement on oath :

*“7. I say that even the same Caste Scrutiny Committee after verifying all the documents has issued caste validity certificate in favour of the Petitioner's real brother's son's son viz. Sagai Chandrakant Birappa after conducting detailed investigation through its Vigilance Cell and considering the report submitted by Vigilance Cell. Hereto annexed and marked as **EXHIBIT-C & D** respectively are the copies of the Vigilance Cell Report dated 14.08.2020 and the Caste Validity Certificate issued by the Caste Scrutiny Committee in favour of Sagai Chandrakant Birappa, who is the blood relative of the Petitioner from paternal side.”*

22. Respondents have not disputed the said statement made by the Petitioner in her affidavit dated 19.06.2021. Similarly, the Caste Validity Certificate appended to the said affidavit, is not disputed by the Respondents. Relation of the Petitioner with Mr. Sagai Chandrakant Birappa is not disputed before us.

23. When the Petitioner's relation with the afore-referred Caste validity Certificate holder is not disputed, the law laid down

by this Court in *Apoorva D/O Vinay Nichale versus Divisional Caste Certificate Scrutiny Committee No.1 and Others*,⁴ ought to be followed. Caste validity Certificate granted to the blood relatives of the Petitioner's paternal side relative cannot be ignored.

24. The Hon'ble Supreme Court in the case of *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti versus State of Maharashtra and Others*,⁵ has considered the sanctity and significance of the prescribed procedure 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. The Hon'ble Supreme Court has dealt with the procedure that has to be followed by the Committee, the importance and significance of the vigilance cell inquiry and establishing the relationship by the claimant with those having a Caste or a Tribe Validity Certificate. Case of *Apoorva D/O Vinay Nichale* (supra) is referred to in paragraph No. 6 of the judgment in the case of *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti* (supra).

25. In the light of the above, position of law emerging

4 2010 SCC OnLine Bom 1053

5 2023 SCC OnLine SC 326

before us as well as considering the above referred documents, we are of the opinion that the reasons assigned by the Respondent No.2 Committee in the impugned order for invalidating the claim of the Petitioner, are erroneous and unsustainable.

26. The impugned order of the Respondent No.2 Committee is hereby quashed and set aside. The Respondent No.2 Committee is directed to issue “Dhangar” Scheduled Caste Validity Certificate to the Petitioners within a period of 30 days from today.

27. **Petition is disposed off** in the above said terms.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)