

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.40 OF 2025

1. Kinjal Vilas Bastav,
Age: 18 Years, Occu: Student,

2. Manav Mukesh Bastav,
Age : 17 years, Minor
Through father and natural
Guardian Shri Mukesh Bastav

3. Aayush Prashant Bastav
Aged: 25 years

All residing at B/8, Mulund Sagar
Prasad CHS Ltd., Gavanpada Village
Road, Mulund East, Mumbai: 400081 Petitioners

versus

1. State of Maharashtra
Through its Secretary, Tribal;
Development Department,
Mantralaya, Mumbai 400032.

2. Scheduled Tribe Certificate Scrutiny
Committee Konkan Division, Thane,

Through its Member Secretary,
Having its office at 6th floor, MTNL
Bldg., Charai, Thane (West)
District Thane

3. Commissioner and Competent
Authority, State Common Entrance
Cell, Maharashtra having its office
At New Excelsior Bldg. 8th floor,
A.K. Nayak Marg, Fort, Mumbai-1.

4. Saraswati Education Society's
Yadavrao Tasgaonkar Institute of
Pharmacy (Degree) having its office
At Chandhai, Bhivpuri Road Station
Tal. Karjat, District Raigad.

....Respondents

Mr. R.K. Mendadkar, for the Petitioners.

Mr. Vikas M. Mali, AGP for the Respondent No.3 – CET Cell.

Ms. Pooja Joshi Deshpande, AGP for the Respondent No.2.

Mr. Dinkar J. Pawara, Joint Commissioner & Vice Chairman,
CVC Thane.

Mr. Dipak T. Shigam, Law Officer, CVC Thane.

Mr. Vaibhav P. Rajam, Law Officer, CVC Thane.

CORAM : BHARATI DANGRE
&
ASHWIN D. BHOBE, JJ.

RESERVED ON : 13th JANUARY, 2025

PRONOUNCED ON : 26th FEBRUARY, 2025

ORAL JUDGMENT (PER ASHWIN D. BHOBE, J.) :-

1. Rule. By consent of the respective counsels representing the parties, Rule is made returnable forthwith. Petition is taken up for final hearing.

2. Respondent No.2, by its Common Order dated 23.10.2024 has invalidated the claim of the Petitioners as belonging to 'Koli Mahadev' Scheduled Tribe Category ("Impugned Order").

3. **Factual Matrix:**

(a) This is a composite petition, at the instance of the following Petitioners viz.:

(i) Kinjal Bastav- Daughter of Vilas Bastav;

(ii) Manav Bastav- Son of Mukesh Bastav; and

(iii) Aayush Bastav- Son of Prashant Bastav.

Petitioner No.1 is the first cousin sister of Petitioner Nos.2 and 3. Similarly, Petitioner Nos.2 and 3 are the first cousin brothers of Petitioner No.1.

(b) Tribe claim of Ms. Yaminee Pandurang Bastav, i.e. paternal real Aunt of the Petitioners as belonging to Mahadeo Koli was the subject matter of Writ Petition No. 1434 of 1994. By order dated 24.03.1994, this Court declared Yaminee Pandurang Bastav as belonging to Scheduled Tribe Mahadeo Koli.

(c) Tribe claim of Mr. Yatin Nilkanth Bastav, the paternal cousin uncle of the Petitioners, as belonging to Mahadev Koli was subject matter of Writ Petition No.8033 of 2004. By order dated 04.10.2013, this Court relying on the Caste Validity Certificate granted to Yaminee Pandurang Bastav, directed the Respondent No.2 to consider the tribe claim of Yatin Nilkanth Bastav. Respondent No.2 on consideration of the tribe claim of Yatin Nilkanth Bastav issued Caste Validity Certificate as

belonging to Koli Mahadev.

(d) Tribe claim of Pramod Govind Bastav, i.e, paternal cousin grandfather of the Petitioners as belonging to Mahadev Koli was subject matter of Writ Petition No.2925 of 2013. By order dated 04.10.2013, this Court directed the Respondent No.2 to consider the tribe claim of Pramod Govind Bastav. Respondent No.2 on consideration of the tribe claim of Pramod Govind Bastav, issued Caste Validity Certificate as belonging to Mahadev Koli.

(e) Special Leave Petition (Diary) No.21767 of 2017 filed against the order dated 04.10.2013 passed in Writ Petition No.8033 of 2004 and Writ Petition No.2925 of 2013 was dismissed by the Hon'ble Supreme Court on 18.09.2017.

(f) Tribe claims of the father of Petitioner No.1 and father of Petitioner No.2 upon being invalidated by the Respondent No.2, was questioned before this Court in Writ Petition No.3134 of 2009.

This Court relying on the Caste Validity Certificate issued to Yaminee Bastav, Yatin Bastav and Pramod Bastav, the close blood relations from paternal side, directed the Respondent No.2 to issue Caste Validity Certificate to Vilas Pandurang Bastav and Mukesh Pandurang Bastav as belonging to Koli Mahadev Schedule Tribe. Respondent No.2 accordingly issued Certificate of Validity to Vilas and Mukesh as belonging to Koli Mahadev .

(g) Petitioners have been issued Scheduled Tribe Certificate in Form C by the Sub Divisional Office, Eastern Suburbs, Mumbai Suburban District.

(h) In the month of April 2024, Petitioners applied to the Respondent No.2 in the prescribed manner for verification of their Tribe Certificate as belonging to Koli Mahadev Scheduled Tribe. Affidavit in Form “F” containing the complete Genealogy Tree was appended to the application.

(i) Application Form of Petitioner No.3 was accepted

by the Respondent No.2 pursuant to the direction issued by this Court vide order dated 12.11.2024 passed in Writ Petition No.9464 of 2024.

(j) Enquiry Report dated 12.11.2024 of the Vigilance Cell was furnished to the Petitioner Nos.1 and 2. Petitioners filed their reply to the Enquiry Report dated 12.11.2024.

(k) Petitioner No.1 had filed Writ Petition No.14956 of 2024 seeking a direction to the Respondent No.2 for expeditious disposal of her application for grant of Caste Validity Certificate. This Court by its order dated 23.10.2024 directed the Respondent No.2 to dispose of the claim of the Petitioner on or before 31.12.2024.

In the meantime, the admission of the Petitioner No.1 was protected, in view of her biological father being granted Caste Validity Certificate by this Court.

(l) By the impugned order the Respondent No.2 has invalidated the claim of the Petitioners.

(m) Petitioners are before this Court questioning the impugned order and seeking a declaration that the Petitioners belong to Koli Mahadev Scheduled Tribe.

4. This Court vide order dated 03.01.2025, by relying on the *prima facie* observation recorded by this Court in Writ Petition No.14956 of 2024, fixed the matter for final disposal.

Submissions:

5. Mr. Mendadkar, the learned Advocate appearing for the Petitioners submits that the blood relations of the Petitioners from paternal side having Caste Validity Certificate as belonging to “Koli Mahadev” Scheduled Tribe, the Petitioners were entitled for grant of scheduled Tribe Validity Certificate as belonging to Koli Mahadev. He submits that the Respondent No.2 has erroneously rejected the claim of the Petitioners. He further contends that the Respondent No.2 has relied on the invalidation of the Tribe Claim of one Nischal Chintaman Bastav and Vishal Chintaman Bastav to deny the claim of the Petitioners. Mr. Mendadkar submits that Nischal or Vishal Chintaman Bastav are not the blood relatives of the Petitioners

from the paternal side and therefore, rejection of their tribe claims are irrelevant to the case of the Petitioners. Mr. Mendadkar has relied on the Tribe Claim of Yaminee Pandurang Bastav, Yatin Nilkanth Bastav, Pramod Govind Bastav, Vilas Pandurang Bastav, Mukesh Pandurang Bastav, all being blood relatives of the Petitioners from paternal side. Mr. Medadkar has relied on the Genealogy Tree referred in the Form “F” dated 02.04.2024 filed by Vilas Pandurang Bastav. He, therefore, prays that the petition be allowed.

6. Ms. Pooja Joshi Deshpande, learned AGP for the Respondent-State has opposed the petition. She submits that the tribe claim of Nischal Chintaman Bastav a relative of the Petitioners has been invalidated by the Respondent No.2 and the said invalidation has been maintained by this Court as well as the Supreme Court. She submits that Yatin Bastav as well as Pramod Bastav had suppressed the invalidation of the claim suffered by Nischal Chintaman Bastav and by such suppression, have validated their claims. She submits that Respondent No.2 has considered the said issue and rightly rejected the Tribe Claim of the Petitioners. She defends the

impugned order by relying upon the reasons set out by the Respondent No.2 and it is her contention that the Petition deserves to be dismissed.

She relies on decision dated 16.04.2022 of this Court in *Nischal Chintaman Bastav versus the State of Maharashtra*¹, Order dated 05.09.2003 passed by the Hon'ble Supreme Court in SLP (Serial No.12560-12561/2002) and Judgment of this Court in the case of *Rashmi versus Deputy Commissioner and Others*.²

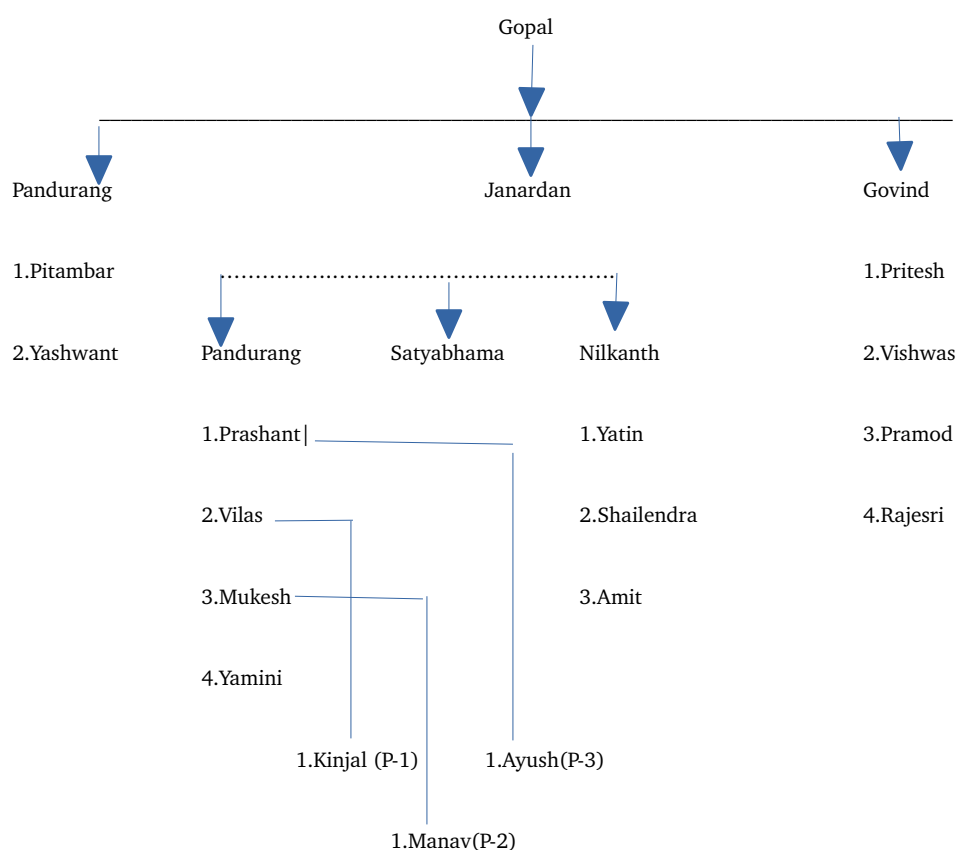
7. With the assistance of the parties, we have perused the record. From the rival contentions of the parties the question for determination is whether the Petitioners on the basis of documentary evidence / material on record have been able to establish that they belong to "Koli Mahadev" Scheduled Tribe?

8. Genealogy Tree relied by the Petitioners at Exhibit K, (page No.108) is transcribed hereunder:

1 Writ Petition No.5634 of 2000

2 2024 SCC OnLine Bom 3064

Genealogy Tree



Analysis:-

9. Records bear out that, the biological father of the Petitioner No.1, i.e., the uncle of Petitioner Nos. 2 & 3 and the biological father of the Petitioner No.2 i.e., the uncle of Petitioner Nos. 1 and 3 have Caste Validity Certificates as belonging to Koli-Mahadev Scheduled Tribe.

Similarly, Petitioners real Aunt Yaminee Pandurang Bastav is holder of Caste Validity Certificate as belonging to Koli-Mahadev.

Yatin Bastav the cousin uncle of the Petitioners is a holder of Caste Validity Certificate as belonging to Koli-Mahadev.

Pramod Bastav cousin grandfather of the Petitioners is also a holder of Caste Validity Certificate as belong to Koli-Mahadev.

10. Respondent No.2 did not find Petitioners relationship with Vilas Bastav, Mukesh Bastav, Yaminee Bastav, Yatin Bastav and Pramod Bastav, disputable.

11. Section 8 of 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, casts the burden of proving that the person belonging to a Caste, Tribe or Class is upon such Claimant who claims to belong to a particular Caste or Tribe.

12. Rule 2(1)(f) of the Maharashtra Scheduled Tribes (Regulation of Issuance and Verification of) Certificate Rules, 2005 defines “Relative” to mean a blood relative from the paternal side of the applicant.

13. Petitioners have relied on the Caste Validity Certificates of their blood relatives from paternal side. Mr. Mendadkar states that the Petitioners are on oath to state that the person referred to in the genealogy tree who are holders of Caste Validity Certificates, are their blood relative from paternal side. Thus, the Petitioners have discharged the burden cast on them.

Ms. Pooja J. Deshpande Learned AGP does not dispute the relationship of the Petitioners with their relatives referred to in para no. 9 herein above. However, it is her claim that the validity obtained by the said relatives of the Petitioners was obtained by suppressing the invalidation of the claim made by Nischal Bastav. The learned AGP, however, was unable to show from the record the relation of Nischal Bastav with the afore-referred relatives of the Petitioners or for that matter with the

Petitioners. No material to that effect was placed before us.

At any rate, the Caste Validity Certificates issued to the aforesaid blood relatives of the Petitioners from paternal side, are intact as on date. Respondent No.2 has not produced any document indicating any of the said Caste Validity Certificates, being invalidated.

14. When the Respondent No.2 did not find Petitioners relation with the afore-referred Caste validity Certificate holders disputable, the law laid down by this Court in ***Apoorva D/O Vinay Nichale versus Divisional Caste Certificate Scrutiny Committee No.1 and Others***,³ ought to have been followed. Respondent No.2. could not have ignored the Caste validity Certificates granted to the blood relatives of the Petitioners paternal side relatives.

15. The Hon'ble Supreme Court in the case of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti versus State of Maharashtra and Others***,⁴ has considered the sanctity and

³ 2010 SCC OnLine Bom 1053

⁴ 2023 SCC OnLine SC 326

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).

16. In the light of the above, position of law emerging before us as well as considering the above referred documents, we are of the opinion that the reasons assigned by the Respondent No.2 in the impugned order in invalidating the claim of the Petitioners are erroneous and unsustainable.

17. In view of the above, the impugned order of the Respondent No.2 is hereby quashed and set aside. The Respondent No.2 is directed to issue Koli-Mahadev Scheduled Tribe Validity Certificate to the Petitioners within a period of 30 days from today.

18. Rule is made absolute in above terms with no orders as to cost.

(ASHWIN D. BHOBE, J.)

(BHARATI DANGRE)