

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 854 OF 2025

Kum. Mimonee Rakesh Kumbhare ...Petitioner
Aged 27 years, residing at Building No. B/604,
Bhoomi Park, Phase – II, Jankalyan Nagar, Marve
Road Malad (West), Mumbai – 400095.

Versus

1. The State of Maharashtra ...Respondents
Through its Secretary, Tribal
Development Department,
Mantralaya, Mumbai – 400 032.

2. Scheduled Tribe Certificate Scrutiny
Committee, Konkan Division, Thane
through its Member-Secretary
having its office at MTNL Building
C Wing, 5th floor, near Ganesh Talkie,
Charai Road, Thane (W),
Dist. Thane.

3. Sub Divisional Officer (Revenue),
Bhiwandi Sub Division, Bhiwandi
Dist. Thane

4. State CET Cell, having its office
Administrative Building,
A. K. Nayak Marg, Fort, Mumbai-1.

Mr R. K. Mendadkar, for the Petitioner.
Mr V. G. Badgujar, AGP for the Respondent Nos. 1 to 3-State.
Mr Dipak Shigam, Law Officer, for the Respondent No. 2 present.

CORAM : **SUMAN SHYAM &**
S. M. MODAK, JJ.

RESERVED ON : **04th DECEMBER 2025.**
PRONOUNCED ON : **16th DECEMBER 2025.**

JUDGMENT (PER S.M. MODAK) :-

1. Rule. Rule made returnable forthwith. Heard finally at an admission stage.
2. Mr. Mendadkar, the learned counsel for the Petitioner argued for the Petitioner/Student and Mr. Badgujar, the learned AGP for Respondent Nos. 1 to 3.
3. This is a second ground of litigation, at the instance of the Petitioner/Student. Her claim for validation of Tribe claim was earlier rejected, and it was challenged by way of Writ Petition No. 104 of 2018. It was disposed of on 20.12.2024, by the Division bench (Coram : Shri Ravindra V. Ghuge and Shri Ashwin D. Bhobe, JJ.) by remanding the matter back to take a fresh decision.
4. After the matter was remanded, the Scrutiny Committee, again invalidated the caste claim of the Petitioner and that is why, the present petition. Mr. Mendadkar, the learned counsel has tried his level best to convince to us to disturb the findings of the Caste committee. However, we are not inclined to interfere with those findings, for the reasons which we will record hereinafter. Primarily, there are no pre-constitutional documents justifying the caste claim of the Petitioner and though not mandatory, but if there is validity granted to a member of the family, it acts as a supporting material. Unfortunately, it is also not there.
5. There is 'Halba' tribe which is recognised as 'Scheduled Tribe' by Scheduled Tribe Order 1950. There are members belonging to 'Halba-Koshti' Caste. Koshtis are the persons whose

occupation is weaving and predominantly, they are residing in Vidarbha area of our State. Many a time, in the contemporary documents, Tribe is mentioned as 'Halba' and on some other occasion, it is mentioned as 'Halba-Koshti'. So in such cases, the question arises to which tribe that person actually belongs to. There are certain observations in para no. 10 of the judgment in case of *Priya s/o Pravin Parate V/s Scheduled Tribes Caste Certificates Scrutiny Committee, Nagpur and Others*¹, the Hon'ble Supreme Court has reproduced the opinion of writer R. V. Russell on Tribes and Castes of the Central Provinces of India published in 1916. The members of the 'Halba Schedule Tribe' after migration have adopted weaving as their occupation. No doubt the Court is required to take a judicial note of change in occupation and change in trails due to passage of time.

6. The Petitioner has completed M.B.B.S. course and now she is desirous of securing admission in PG Course and has applied for the same on the basis of the Tribe reservation. The authority expects her to submit the validator certificate upto 06.12.2025. In view of this urgency, we have taken up this petition for hearing. Though at present the Petitioner resides in Mumbai, she claims that her father-Rakesh has taken education in Nagpur and in fact, her native place is at village Nagbhid, District Chandrapur. Her father-Rakesh and grandfather-Waman have taken education at Nagpur. There are documents filed by the Petitioner in support of this contention and concerned documents record their Tribe as 'Halba'.

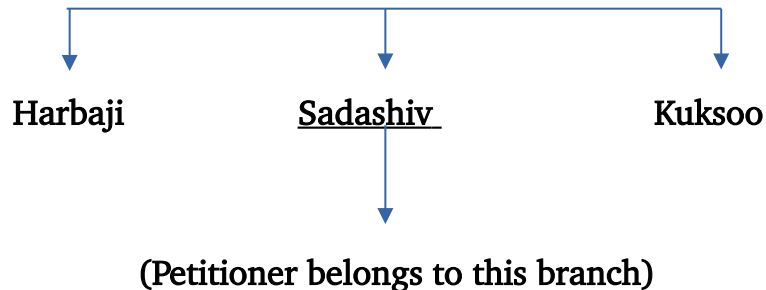
1 (2013) 1 Mh.L.J. 180

7. Prior to appreciating those documents, it will be pertinent to consider the family tree which is relevant for present adjudication. There are three family trees, which are part of the compilation. They are as follows:-

- (a) The family tree annexed to the vigilance inquiry and annexed alongwith statement of Waman Balaji Kumbhare, dated 06.05.2017 (who is grandfather of the Petitioner)
- (b) The family tree which is annexed to statement of Rakesh, who is father of the Petitioner.
- (c) Family tree annexed to the statement of the Rakesh- father of the Petitioner dated 26.12.2024.

8. It is true the family members mentioned in all the trees are not identical, but for ready reference, we are reproducing the family tree consisting of members, whose names are referred by Mr. Mendadkar, the learned counsel for the Petitioner, during his arguments. It is as follows:-

- (a) There are three heads of the families. They are:-



- (b) The branch of the Petitioner is as follows :-

Sadashiv



Balaji



Waman



Rakesh



Petitioner.

(Only names which are relevant are mentioned.)

- (c) Reference is made about Eknath Kumbhare. But his name finds place in the branch headed by Harbaji and also in branch headed by Kuksoo.
- (d) There is reference of Eknath, whose sons are Manish and Vijay. There is reference of these names in the order dated 20.12.2024 (Coram : Shri Ravindra V. Ghuge and Ashwin D. Bhobe, JJ), who is from branch headed by Harbaji.

Documents relied upon by the Petitioner

9. Basically, she relied upon the following documents:-

- (i) The documents pertaining to grandfather-Waman Balaji Kumbhare.
- (ii) Documents pertaining to father-Rakesh.

- (iii) Documents pertaining to Petitioner herself.
- (iv) Documents pertaining to Shankar Kuksoo (there is serious dispute, whether Petitioner is related to this Shankar).
- (v) Documents pertaining to Eknath Kumbhare. There is validity certificate in his favour. However, the Petitioner relinquished her claim to place reliance on his validity certificate. (this is recorded in para no. 4 of the order dated 20.12.2024) passed in earlier petition.
- (vi) The documents pertaining to Harbaji Chimnaji. However, they were not considered by the Committee for the reason, their connection with the Petitioner could not be established.

10. When we have gone through all these documents, following inference can be drawn.

- (A) There is no validity certificate issued in favour of any of the members of the family of the Petitioner. No doubt such certificate is not mandatory. But if such certificate is there, it can be considered as corroborative material in favour of the Petitioner.
- (B) No doubt in the documents pertaining to the school of the Petitioner and his father, the Tribe which is mentioned is of 'Halba', but they are post-constitutional documents, and are of recent origin.
- (C) The Petitioner was born on 09.04.1997, whereas his father Rakesh was born on 12.08.1973. The grandfather-

Waman born on 18.11.1935 and he worked in Indian Bureau of Mines, at Nagpur and Tribe mentioned is 'Halba'. (But birth record of Waman is not produced). There is transfer certificate issued by the school at Nagpur to grandfather-Waman. He studied in that school from 06.05.1949 to 02.06.1956. His caste is mentioned as 'Halba'. There is strong reliance on this document on behalf of the Petitioner. There is extract of Dakhal Kharij Register (admission register) pertaining to Waman-grandfather of the Petitioner. The caste of Waman is mentioned as '(Koshti)Halba'.

11. The learned AGP places reliance on last document. Whereas according to learned counsel Mr. Mendadkar, 'Koshti' is nothing but occupation of grandfather-Waman. There is statement of grandfather-Waman recorded on 06.05.2017 in the earlier vigilance inquiry. He has explained his place of employment and mentioned his Tribe in transfer certificate.

12. The Petitioner heavily relied upon the copy of the 'Sanitation certificate' issued in favour of the one Shankar Kuksoo. It was issued in the year 1948. The Tribe is mentioned as 'Halba'. We are unable to accept this document, for the simple reason, there is controversy, whether this Shankar Kuksoo is from the family of the Petitioner or not. In all the family trees, his name is not shown. There are no statements recorded during vigilance inquiry showing the relationship in between said Shankar Kuksoo and the Petitioner. The documents in respect of Eknath Kumbhare were already given up by the Petitioner as recorded in the earlier petition.

13. In the order dated 20.12.2024, the Division bench of this Court directed the Committee to conduct inquiry in respect of certain documents pertaining to Nagorao, son of Harbaji Chimnaji Kumbhare (para no. 7 of the said order). In the reply given by the Petitioner, in the earlier vigilance inquiry dated 19.08.2017, the Petitioner has referred to School general register of 1923, wherein the Tribe of her cousin grandfather-Nagorao Harbaji Kumbhar is shown as 'Halba'. So also in the school-leaving certificate. However, learned AGP has pointed our attention to the observations of the Committee about these documents. Committee has given categorical findings that the said Harbaji does not belong to the family of the Petitioner. The learned counsel Mr. Mendadkar tried to submit that there is tendency amongst the family members not to support other family members, when there is issue of claiming of benefit. This can be considered as general preposition. However, the Caste claim has to be decided on the basis of the documents.

14. In case of *State of Maharashtra Vs. Milind and others*² passed by the Hon'ble Supreme Court, there is reference of direction given by the Central Governments to all the State Government to conduct strict inquiry about the issuance of the Caste certificate. This judgment is delivered on the factual background as to whether, 'Halba-Koshti' is sub-tribe of Halba within the entry as per Scheduled Tribe order, relevant to the State of Maharashtra.

15. It is true the learned counsel Mr. Mendadkar, has relied upon the observations in case of *Priya s/o Pravin Parate (supra)*, wherein

2 (2001) 1 SCC 4

the Hon'ble Supreme Court has taken judicial note of migration undertaken by the members belonging to 'Halba community'. In that case also some documents records the Tribe as 'Halba', whereas in some of the documents caste refers as 'Halba-Koshti'. The Supreme Court emphasized on considering pre-constitutional documents depicting Tribe as 'Halba'. However, in this case there is hardly any pre-constitutional document.

16. There is only one transfer certificate recording the tribe of grandfather-Waman as 'Halba'. On the other hand, there is Dakhal Kharij Register (admission register), on the date of admission i.e. 06.05.1949, wherein the caste mentioned is as 'Halba-Koshti'. Entry in transfer certificate is and the sole material. It cannot be accepted, for the reason, that there is counter documents doubting such entry. Furthermore, there are no supporting documents of pre-constitutional era justifying the tribe of the Petitioner's forefather as 'Halba'.

17. The observations in case of ***Ashlesh Chandrakant Dange Vs. State of Maharashtra and Others***³ will not be helpful to the Petitioner because that facts are different. In that case, the father of the Petitioner had been granted validity certificate of 'Halba' tribe. So also in case of ***S. Nagarajan Vs. District Collector, Salem and Others***⁴, there were issue of difference in between 'Hindu Reddi' and 'Konda Reddi'. 'Konda Reddi' was Scheduled tribe recognised in the State of Tamilnadu. The father of the Petitioner therein was in Government Service, but never obtained benefit on

3 2019 (1) Mh.L.J.491

4 (1997) 2 SCC 571

the basis of 'Konda Reddi' caste. This fact was considered against the Petitioner (para no. 3).

18. For the above discussion, the Petitioner is unable to justify her claim that she belongs to 'Halba' Scheduled Tribe category as there are no pre-constitutional documents. The document which is post-constitutional, cannot be given proper weightage. There are no statements recorded during vigilance inquiry supporting the claim of the Petitioner. There is also no validity granted in favour of the members of family of the Petitioner. We find no fault in the findings recorded by the Committee. No interference is warranted. We find no reason to allow the petition. It stands dismissed.

19. The Petitioner has already completed MBBS Course on the basis of the reservation. It is true this benefit cannot be taken away just because the Petitioner has failed in this Writ Petition. The learned AGP has relied upon the observations in case of ***Chairman And Managing Director, Food Corporation of India and Others Vs. Jagdish Balaram Bahira and Others***⁵ and observations in order dated 22.08.2024 in case of ***Dhananjay Satyawar Balwante and Anr. Vs. State of Maharashtra and Ors.*** passed by the Division bench of this Court in Writ Petition No. 14440 of 2024.

20. In view of above observations, we are making it clear that the Petitioner will not be entitled to future benefit on the basis of the Tribe certificate issued to her by sub-divisional officer, Bhiwandi on 25.04.2005 certifying her as member of 'Halba' tribe. However, benefit of tribe already availed by the Petitioner shall not

5 (2017) 8 SCC 670

be disturbed in any manner. The decision of Committee is therefore, affirmed.

21. With these observations, the Writ Petition stands dismissed.

22. Ad-interim order, if any, stands vacated. Pending Interim Application, if any, also stands disposed of.

23. Rule stands discharged accordingly.

(S. M. MODAK, J.)

(SUMAN SHYAM, J.)