

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

CIVIL WRIT PETITION NO. 7547 OF 2025

Diksha Pramod Tupe,
Age – 20 years, Resident of Deogaon,
Taluka Niphad, District Nashik.

} ...Petitioner

Versus

- 1] The State of Maharashtra;
- 2] The District Caste Scrutiny
Committee, Nashik;
- 3] The Collector of Nashik, Nashik;
- 4] The Sub Divisional Officer,
Niphad Sub Division, Nashik;
- 5] The Tahasildar, Niphad, Nashik;
- 6] Aarti Eknath Taskar,
Age – 56 years,
Residing at Rui, Taluka Niphad,
District – Nashik.

} ...Respondents

Mr. Sanjiv Sawant a/w. Mr. Heramb Kada and Mr. Malhar Bageshwar, advocate for the Petitioner.

Mr. S.P. Kamble, AGP for Respondent – State.

Mr. Nitin Gaware Patil a/w. Mr. Narayan G. Rokade, Mr. Siddharth R. Ghodke, Mr. Ramchandra Wagh and Mr. Swapnil Kalokhe, advocate for the Respondent No.6.

CORAM:

**SUMAN SHYAM &
MANJUSHA DESHPANDE, JJ.**

**RESERVED ON : 9TH OCTOBER, 2025.
PRONOUNCED ON: 17TH OCTOBER, 2025.**

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JUDGMENT (PER : MANJUSHA DESHPANDE, J.):-

1. Rule. Rule is made returnable forthwith, the matter is taken up for final hearing with the consent of the parties.
2. By way of this Writ Petition, the Petitioner challenges the appointment to the post of Kotwal issued in favour of Respondent No.6, vide order dated 28th February, 2024, as well as the rejection of her complaint against the Caste Validity Certificate issued by Respondent No.2.
3. The Petitioner is an unsuccessful candidate, who had applied for the post of Kotwal in the office of Respondent No.3–Sub Divisional Office, Niphad, District–Nashik. The Petitioner as well as the Respondent No. 6 are similarly situated candidates belonging to the reserved category, who applied for the post of Kotwal, incidentally both have secured equal i.e., 58 marks. The appointing authority by applying the criteria, in case of equal marks obtained by candidates, issued appointment in favour of Respondent No.6.
4. Being aggrieved by the selection of the Respondent No.6, the Petitioner had filed a complaint with the Respondent No.2–Committee raising objection to the validity certificate issued in her favour. She also filed a complaint before the Respondent No.5 contending that, the Respondent No.6 has secured appointment on the basis of forged caste certificate. While raising objection to the appointment of Respondent No.6 before the Respondent No.4, she has also claimed that the Respondent No.6 suffered disqualification due to registration of FIR No. 0010 dated

15th January, 2024, registered for offences punishable under Sections 143, 323, 504 and 505 of the Indian Penal Code (“IPC”, for short). Her application before the Respondent No.2 raising challenge to the Caste Validity Certificate has been rejected by the Committee vide order dated 23rd December, 2024. In spite of the complaint made before the Respondent authorities, the Respondent No.4 has issued an order of appointment in favour of Respondent No.6 vide communication dated 28th February, 2024. Being aggrieved by rejection of her complaint by Respondent authorities, the Petitioner has approached this Court invoking the powers of this Court under Article 226 of the Constitution of India.

5. Mr. Sanjeev Savant, learned advocate for the Petitioner submits that, in spite of disqualification suffered by the Respondent No.6, on two counts, an appointment order was issued in her favour, which requires consideration by this Court. An advertisement was issued for recruitment to the post of Kotwal in the office of Respondent No.5, Sub-Divisional Officer, Niphad, Nashik. As per the terms and conditions, and the eligibility criteria in the advertisement, more specifically Clause No.6 provided that, there should not be any offence registered against the applicant nor any penalty imposed in relation to such an offence. A police verification report was required to be produced during the document verification by the applicant, failure to produce it rendered the applicant ineligible for appointment. Though this was a mandatory condition, FIR No. 0010 dated 15th January 2024 registered against Respondent No.6, is suppressed by her, and eventually she has obtained the appointment order by playing

fraud. Therefore, the appointment order issued in favour of Respondent No.6 deserves to be cancelled, and the Petitioner, having scored equal marks and equally eligible, deserves to be considered for appointment to the post of Kotwal.

6. He further submits that the other ground for challenging the appointment of Respondent No.6 is that her caste validity certificate is bogus and was obtained without producing any supporting documents, therefore it deserves to be cancelled. Though the Petitioner filed a complaint before the Respondent No.2 Committee and the Petitioner was granted an opportunity of hearing, however, with total disregard to the objection raised by the Petitioner, the complaint made by the Petitioner has been rejected by the Scrutiny Committee.

7. According to him, the vigilance report dated 22nd July, 2024 was contrary to the claim of the Respondent No.6. The relationship of Kisan Sakharam Taskar whose caste in the documents is recorded as, “Kunbi” pertains to 16th October, 1910, is disputed by the Petitioner. Neither Kisan Sakharam Taskar nor the validity holders, Ashwini Kedarnathh Taskar and Vaibhav Kedarnath Taskar, are related to the Respondent No.6. Most importantly, the School leaving certificate of the Respondent No.6 dated 4th April, 2000, and, that of her father records their caste as, “Maratha”.

8. The very existence of one Mahali Kisan Sakaram, who is purportedly the daughter of Great Grandfather of Respondent No.6, is disputed by the Petitioner. According to him the birth entry of said Mahali, recorded in the year 1910, shows her caste as

“Kunbi” and is recorded in ‘Modi’ script (language); the same could not have been relied upon by the Respondent No.2–Committee.

9. The Learned Advocate for the Petitioner further submits that, Respondent No.2 has wrongly taken into consideration the false claim of the Respondent No.6 without support of any genuine ancestry. Considering that the transfer certificate of the Respondent No.6 as well as her father, records their castes, “Maratha”, she cannot now claim to belong to “Kunbi” caste. The documents produced by the Respondent No.6 clearly indicate that she has manipulated the records and has obtained the caste validity certificate by fraud and misrepresentation. He places reliance on the reported Judgment of *Avtar Singh Vs. Union of India & others*¹, to contend that wrong/incorrect information, entails in termination of service. Therefore, it is submitted that the order passed by the District Caste Scrutiny, Nashik dated 23rd March, 2024 is required to be quashed and set aside.

10. Mr. Nitin Gaware Patil, learned advocate appearing for the contesting Respondent No.6 submits that, at the outset the Writ Petition does not deserve any consideration, since the Petitioner is an unsuccessful candidate having failed to qualify, has now challenged the appointment of the Respondent No.6. As such, on this ground alone the Writ Petition deserves to be dismissed.

11. While responding to the first objection about suppression of filing of FIR against the Respondent No.6, it is submitted that the advertisement was issued on 29th September, 2023 and the last

¹(2016) 8 SCC 471

date for filing the application form was 8th October, 2023. The result of the written test was declared on 10th December, 2023 and the verification of the documents was conducted on 26th December, 2023. Whereas, the FIR was registered on 10th January, 2024. Therefore, the question of any suppression about registration of FIR against Respondent No.6 did not arise. Even otherwise, the offence was registered under Sections 123, 323, 504 and 505 of the IPC, which are all non-cognizable offences. After investigation, charge-sheet has been filed only against two persons, namely, Mangala Kacharu Zure and Mahesh Kacharu Zure, *vide* final report dated 22nd January, 2021, and now a “C” Summary has been filed. Hence, there is no substance in the allegations made by the Petitioner and as such, the objection as regards suppression about filing of FIR against the Respondent No.6 does not survive on the aforementioned background.

He places reliance on the decision in case of ***Jeetendra Ramdeo Daraokar Vs. the State of Maharashtra***² in Criminal Writ Petition No.4055 of 2025, to contend that if a police officer desires to register an FIR, for non cognizable offence, he is required to approach the Magistrate under Section 155 of the Code of Criminal Procedure, seeking permission to investigate the matter. Without such an order of the Magistrate, the officer is not expected to investigate a non-cognizable case; in the present case no such permission was obtained under section 155 of the Cr.P.C. Therefore there was no valid FIR in the eyes of law.

² 2025:BHC-AS:31112-DB

12. As regards the rejection of the objection of the Petitioner by the Caste Scrutiny Committee is concerned, the learned Advocate submits that, the Respondent No.6 has submitted her written submissions before the Caste Scrutiny Committee along with the caste validity certificate of her blood relatives, namely, Vaibhav Kedarnath Taskar and Ashwini Kedarnath Taskar, supported by their affidavits. He further submits that the oldest documents of the year 1910, showing caste of one Mahali, d/o Kisan Sakharam reflecting her caste as “Kunbi” in her birth extract, has a great probative value. This document being pre-constitutional is of great importance; as such, the caste recorded is genuine, recorded without any ulterior motive of securing any benefit on the basis of caste. The birth extract of 1910, though recorded in Modi script (language), the transcript of the document in Devanagari made by one Nilesh Khelurkar as well as Peerjada Hafiz Jainuddin with their affidavit were very much placed before the Committee, which leaves no room for any doubt.

13. Although the Petitioner has disputed the genealogy produced by the Respondent No.6 on 1.04.2024 and 10.11.2024, it is submitted that in both the genealogies, the Respondent No.6 has clearly established her relationship with the validity holder Ashwini Taskar as well as Vaibhav Taskar. Hence, the objection with regard to genealogy does not deserve any consideration. In view of the two validity holders in the family, who are blood relatives of the Respondent No.6, the complaint filed by the Petitioner has been rightly rejected by the Scrutiny Committee.

14. In support of his above submissions the Advocate for Respondent No.6 places reliance on various decisions of this Court which reiterates the position of law laid down by the Hon'ble Supreme Court in case of *Apoorva Nichale Vs. Caste Scrutiny Committee*³. In addition he has also placed reliance on the observations made by the Supreme Court in case of *Kumari Madhuri Patil & Anr. Vs. Additional Commissioner, Tribal Development & Ors*⁴ to buttress his argument.

15. The learned AGP appearing for the Respondent Nos. 3, 4 and 5 submits that the recruitment of Kotwal has been completed in the year 2023. The Petitioner as well as Respondent No. 6 secured equal marks in the written examination. Both of them belong to Hindu Kunbi i.e., OBC category. Since both had secured equal marks, the criteria laid down in the Government Resolution, dated 13th June 2018, was made applicable in their case. The Government Resolution has laid down criteria to be applied when two or more candidates secure equal marks. Since the Respondent No. 6 is a graduate, and her date of birth is 4th April, 2000 she is better placed than the Petitioner, hence she has been selected for the post of Village Devgav, Tal- Niphad, District Nashik.

He further submits that, though the Petitioner has taken objection to the appointment of Respondent No. 6 on the ground of suppression of registration of FIR, the FIR has been filed subsequently, and no FIR was pending on the date of the scrutiny of the document which was done on 26th December 2023. Even

³ 2010(6) Mh.L.J.401

⁴ (1994) 6 SCC 241

otherwise, the Police Inspector of Lasalgaon, has submitted a 'C' summary report on 22nd January 2024, therefore, the very objection of suppression of FIR does not survive. As such, the Writ Petition deserves to be dismissed.

16. Upon hearing the respective counsel and after a careful scrutiny of the documents on record, the Petitioner appears to have challenged the order of appointment issued in favour of Respondent No.6 by making complaint to Respondent No. 2– District Caste Scrutiny Committee Nashik and also making complaint to the Respondent No.5 Tahasildar Niphad District–Nashik.

17. In the complaint made to Respondent No.2 it is alleged that Respondent No. 6 has obtained caste validity certificate on the basis of a bogus caste certificate. Though the Transfer Certificate of Respondent No.6 and Birth Certificate of her father records their caste as Maratha, by playing fraud and relying on wrong genealogy the Respondent No.6 has obtained the caste validity. Upon perusal of the order passed by Respondent No.2-Scrutiny Committee, we find that, the Scrutiny Committee has taken into account the validity certificate issued to the two family members, i.e., Ashwini Kedarnath Taskar and Vaibhav Kedarnath Taskar. Both the validity holders are related to Respondent No.6, as can be seen from the two genealogies reproduced in the impugned order.

18. Though the Petitioner had raised doubts about the said genealogy, she has failed to demonstrate that, Ashwini and Vaibhav are not related by blood to the Respondent No.6. Both the

genealogies support the case of Respondent No.6, Sakharam is the common ancestor of both the validity holders, as well as the Respondent No.6. Apart from that, reliance is also placed by the scrutiny committee on the birth extract of one Mahali, daughter of Kisan Sakharam, which shows her caste recorded as 'Kunbi' in the year 1910. The name of said Mahali can be found in both the genealogies produced by the Respondent No.6. Hence, her relationship with Respondent No.6 is also established.

19. Though objection is raised to the birth extract on the ground that it is in a 'Modi' script, the translation of the 'Modi' script to Devanagari script has been produced by Respondent No. 6, which is supported by the affidavit of the persons, translating the documents. Hence, the document of the year 1910, has been duly proved by the Respondent No.6. The relationship with Mahali, daughter of Kisan Sakharam, as well as with the two validity holders in the family is proved by the Respondent No.6 therefore the same benefit as extended to Vaibhav and Ashwini is also required to be extended to Respondent No.6 as has been held by this Court in the authoritative judicial pronouncement in the case of *Apoorva Nichale Vs. Caste Scrutiny Committee*⁵. This Court in the above referred judgment has held that when a biological father, siblings, uncle etc. are granted validity certificates, a candidate who is related to them by blood cannot be deprived of the validity certificate. This view has been further followed in various decisions of this Court. Therefore, the challenge of the Petitioner on that count fails.

⁵ *Id. At 3.*

20. The other limb of challenge by the Petitioner concerns the alleged suppression of FIR No. 10 of 2024, registered against Respondent No.6 on 10th January 2024. Admittedly, it was mandatory for candidates, applying for the post of Kotwal to disclose the pending cases, penalty if any imposed in connection with such offence registered against them during the verification of documents by the Respondent - Authorities. From the dates of the events reproduced by the Respondent No.6 in the affidavit it is evident that, the written examination was conducted on 22.12.2023 and the FIR was registered on 10.1.2024. After the result of the examination was declared, the verification of the documents was conducted on 26.12.2023 as has been stated by the Respondent–Authorities in their affidavit. Hence, it is evident that when the verification of the documents was conducted by the Respondent there was no FIR pending against Respondent No.6. Therefore, there is no substance in the contention of the Petitioner that the Respondent No.6 has suppressed material facts from the Respondent authorities in order to secure employment.

Though the Petitioner and Respondent No.6 secured equal marks in the written examination, as per the criteria laid down in the G.R. dated 13.06.2018, Respondent No. 6 was in a much better position, possessing a graduate degree as compared to the Petitioner's 12th standard qualification, and was also older in age than the Petitioner. The Respondent No.6 clearly was more meritorious candidate who has been selected as per merit. We do not find any *malafides* as alleged by the Petitioner in the appointment of Respondent No.6. As such, there is no substance in

the allegation of the Petitioner against the Respondent Nos. 3 to 5 for having appointed the Respondent No.6 by flouting the principles of service jurisprudence.

21. The learned counsel for the Petitioner has placed reliance on the Judgment of *Avtar singh V/s Union of India*⁶, in support of his contention that, the Applicant is bound to disclose information about registration of any offence against him and failure to do so amounts to suppression, which necessarily result in termination of service. From the chronology of the dates and events as given by the Respondent authorities it is evident that the FIR was filed subsequent to the verification of documents by the authorities. Hence we have no hesitation to hold that there was no suppression, which can be attributed to Respondent No.6. As such there is no substance in grounds raised by the Petitioner. Hence the Writ Petition does not deserve any consideration, and is dismissed being devoid of any merits.

(MANJUSHA DESHPANDE, J.)

(SUMAN SHYAM, J.)

⁶ (2016) 8 SCC 471