



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 1836 OF 2023

PETITIONER:

Milind s/o Madhukar Nandanwar,
Aged about 48 years, Occu: Service,
R/o B-301, Mamata Sankalp Niwas
Cooperative Housing Society, Near IT
Park, Malad (E), Mumbai.

...V E R S U S...

RESPONDENTS

1. The State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai.
2. The Scheduled Tribes Caste Certificate
Scrutiny Committee through its
Member Secretary and Deputy
Director, District YavatCmal.
3. Senior Superintendent of Post Offices,
Mumbai Circle, North/West Division,
Samata Nagar, Kandivali, Mumbai.

Shri Ashwin Deshpande, counsel for petitioner.

Shri A.S. Fulzele, Additional Government Pleader for respondent
Nos. 1 and 2.

Ms Ishika Jaiswal h/f Shri S.A. Chaudhari, counsel for respondent
No.3.

CORAM : SMT. M. S. JAWALKAR & RAJ .D. WAKODE, JJ.

CLOSED FOR JUDGMENT ON :- 09/09/2025

JUDGMENT PRONOUNCED ON :- 03/11/2025

JUDGMENT : (Per Raj D. Wakode, J)

1. Heard Shri Ashwin Deshpande, learned counsel for the petitioner, Shri A.S. Fulzele, learned Additional G.P for respondent Nos. 1 and 2 and Ms Ishika Jaiswal, learned counsel holding for Shri S.A. Chaudhari, learned counsel for respondent No.3.

2. **RULE.** Rule made returnable forthwith. Heard finally by consent of learned Counsel for the respective parties

3. The petitioner has approached this Court seeking challenge to the impugned order dated 08/03/2023 passed by the Respondent No.2 – Scheduled Tribes Caste Certificate Scrutiny Committee, Yavatmal, thereby invalidating the caste claim of the petitioner towards Halbi – Scheduled Tribe. The petitioner also seeks declaration of this Court that the petitioner belongs to Halbi – Scheduled Tribe, which is an entry at Sr. No. 19 in the Constitutional Scheduled Tribe Order, 1950, and further directions to the respondent No.2 – Committee to issue caste validity certificate in the name of the petitioner certifying that the petitioner belongs to Halbi – Scheduled Tribe.

4. The facts, undisputed, leading to the filing of the present writ petition are as follows :-

That the petitioner was appointed as a 'Postal Assistant' in the respondent No.3 – Department w.e.f. 10/09/1996 against seat reserved for Scheduled Tribe category. The copy of the appointment order dated 04/09/1996, substantiating the aforesaid fact is placed on record (Page-84 Annexure-2). The petitioner was appointed in reserved category, and hence his caste claim was referred to the Scheduled Tribe Certificate Scrutiny

Committee, Nagpur. The aforesaid Committee invalidated the caste claim of the petitioner vide its order dated 16/02/2019. The said order was challenged by the petitioner by filing Writ Petition bearing No. 2973 of 2019 before the Principal Bench at Bombay. The Principal Bench at Bombay, after hearing the aforesaid Writ Petition, held that the impugned order was passed by quasi-judicial authority which was within the jurisdiction of Nagpur Bench of the Bombay High Court and hence, the petition ought to have been filed before the Nagpur Bench of this Court. Accordingly, the counsel for the petitioner sought leave of the Court to withdraw the aforesaid writ petition with liberty to file fresh writ petition before the Nagpur Bench of the Bombay High Court. Accordingly, the aforesaid writ petition was disposed of by the Principal Bench of this Court vide its order dated 14/03/2019. The order dated 14/03/2019 is placed on record (Page-86 Annexure-3).

5. Thereafter, the petitioner filed Writ Petition No.2973 of 2019 before this Court seeking challenge to the impugned order dated 16/02/2019, passed by the Caste Certificate Scrutiny Committee, Nagpur. This Court on 26/08/2019 heard the matter on merits and disposed of the same with liberty to the petitioner to obtain the fresh caste certificate from the competent authority at Umarkhed, District Yavatmal so that, it can be verified by the Caste Certificate Scrutiny Committee at Amravati. The copy of the aforesaid order dated 26/08/2019 is at record (Page 88 Annexure-4).

6. In view of the aforesaid order, the petitioner obtained

the Scheduled Tribe Caste Certificate in Form "C" from the Sub-Divisional Officer, Umarkhed on 04/07/2019. The petitioner thereafter submitted an online application on 11/09/2019 to the Scheduled Tribes Certificate Scrutiny Committee, Amravati, for verification of his Caste Certificate dated 04/07/2019. Accordingly, the process of verification of the petitioner's caste claim towards Halbi – Scheduled Tribe was initiated.

7. The Caste Certificate Scrutiny Committee, Amravati forwarded the claim of the petitioner to the Vigilance Cell for conducting detailed home, school and other allied enquiries. The Vigilance Cell submitted its report dated 09/06/2022. Since the Vigilance Cell had obtained certain contra entries against the petitioner, the Vigilance Cell issued a show cause notice to the petitioner on 20/06/2022.

8. It is worth while to mention here that Caste Scrutiny Committee, Amravati conducted hearing in the matter on 27/07/2022, during which the statement of the petitioner was also recorded. However, the respondent No.2- the Scheduled Tribes Caste Certificate Scrutiny Committee, Yavatmal came into existence w.e.f. 01/01/2022, having been bifurcated from Amravati Committee. The actual functioning of the respondent No.2-Committee started in the month of August-2022.

9. Thus, respondent No.2 – Committee issued another show cause notice dated 03/11/2022, calling upon the petitioner to remain present for hearing before it on 09/11/2022. The petitioner duly attended the said hearing, and after hearing, respondent No.2 - Committee passed the impugned order dated

08/03/2023, thereby invalidating the petitioner's caste claim towards Halbi - Scheduled Tribe.

10. Being aggrieved by the said order, the petitioner has approached this Court by way of present writ petition.

11. Shri Ashwin Deshpande, learned counsel for the petitioner, strenuously argued that the petitioner had placed on record at least four pre-constitutional documents pertaining to his paternal relatives, all between the period from 1926 to 1940, which clearly recorded the caste as Halbi – Scheduled Tribe. However, Respondent No.2– Committee erroneously rejected these documents having high probative value on the grounds of affinity and certain contra entries of caste – “Koshti”, pertaining to the persons who were not related to the petitioner.

12. Learned counsel for the petitioner further pointed out that the respondent No.2 -Committee relied upon the invalidation of caste claim of paternal relative Dilip Ganpatrao Nandanwar, which was not at all justified in view of the settled law laid down by this Court. Therefore, in view of the pre-constitutional documents, the present writ petition deserves to be allowed, and the respondent No.2-Committee ought to be directed to issue validity certificate to the petitioner.

13. Per contra, Shri A.S. Fulzele, learned Additional Government Pleader, supported the impugned order passed by the respondent No.2- Committee and contended that Vigilance Cell procured documents mentioned in paragraph 8 of the impugned order, pertaining to the period from 1914 to 1946, showing the

caste entries as “Koshti”.

14. Shri A.S. Fulzele, learned AGP further pointed out that petitioner’s uncle, Shri Dilip Ganpat Nandanwar, whose tribe claim had been invalidated by the Caste Certificate Scrutiny Committee, Amravati, had accepted such invalidation and never challenged it before this Court. He also pointed out that the petitioner’s paternal cousin, Kunal Dilip Nandanwar, had obtained a validity certificate in the Koshti – SBC category. Accordingly, learned AGP contended that in view of the aforesaid adverse material against the petitioner, the respondent No.2 - Committee was completely justified in rejecting the petitioner’s caste claim, and therefore the writ petition deserves to be dismissed.

15. In the light of the above factual position, we have heard the respective counsels, perused the documents on record, and examined the original record produced by respondent No.2 – Committee.

16. Respondent No.2 – Committee, in para-5 of the impugned order dated 08/03/2023, has produced the list of documents submitted by the petitioner for substantiating his caste claim towards Halbi – Scheduled Tribe. The family tree of the petitioner, prepared by the Vigilance Cell, is on record Page No. 140. The petitioner relied upon the first page of the service book of his father, Shri Madhukar Ganpat Nandanwar, which records his caste as Halbi – Scheduled Tribe and his date of birth as 15/07/1940, the aforesaid document is at record (Page No. 109 Annexure-12).

17. Learned counsel for the petitioner has also invited our attention to the birth extract of one male child born to Ganpatya Dasru on 17/08/1940, recording the caste as Halbi, the aforesaid document which is at Serial No. 10 in the impugned order is at record (Page-112 Annexure 15). The respondent No.2 - Committee further included a document at Serial No. 11, pertaining to one Ganpat Dasaru who is grand-father of petitioner showing his caste recorded as Halbi on 30/07/1932. The document is at record (Page 113 Annexure-16). The last pre-constitutional document relied upon by the petitioner is mentioned by respondent No.2- Committee at Serial No. 12, which is a birth extract of one male child born to Dasru Tolaji on 08/08/1926, also recording the caste as Halbi.

18. On perusal of the above documents, it is evident that the pre-constitutional documents pertaining to the petitioner's father, grandfather, and great-grandfather clearly record the caste as Halbi. Being pre-constitutional, these documents possess high probative value. Therefore, respondent No.2 - Committee was not justified in rejecting the aforesaid pre-constitutional documents. The fact remains that Police Vigilance Cell duly verified the aforesaid documents and did not raise any doubts as to the genuineness or authenticity of the aforesaid pre-constitutional documents.

19. The respondent No.2 – Committee, while answering issue No.2, rejected these pre-constitutional documents on the ground that the petitioner had failed to prove affinity towards Halbi - Scheduled Tribe. However, the aforesaid issue is no longer

res integra in view of the judgment of the Hon'ble Supreme Court in ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti v. State of Maharashtra reported in 2023 (2) Mh.L.J. 785***, wherein the Hon'ble Apex Court held that the affinity test cannot be termed as a 'litmus test' for determination of caste claims. The Hon'ble Apex Court further observed that pre-constitutional documents are having more probative value and that the affinity test is not an essential part of the determination process of caste or tribe claims. Hence, respondent No.2 - Committee was not at all justified in ignoring the several pre-constitutional documents substantiating the caste claim of the petitioner solely on the ground that affinity test could not be proved.

20. Shri Fulzele, learned AGP, heavily relied upon certain adverse entries of caste "Koshti" procured by the Vigilance Cell and mentioned in para-8 of the impugned order. The aforesaid entries are pertaining to the period from 1914 to 1946.

21. Learned counsel for the petitioner, Shri Ashwin Deshpande, has drawn our attention to the petitioner's reply to the show-cause notice issued by the Vigilance Cell, the copy of which is placed on record at Page No.149. In the aforesaid reply, the petitioner clearly denied any relationship with the individuals to whom these documents are related. The documents at Serial No. 1 and Serial No.2 are birth extracts of female children born to one Khobraji on 02/10/1914 and 23/10/1922. However, on perusal of the family tree of the petitioner, as prepared by the Vigilance Cell at record (Page 140), clearly contradicts the aforesaid two documents pointing out two female children born to

Khobraji. As per the above family tree, Khobraji, had only two sons Sambhaji and Narayan and no female child, and hence, finding of the respondent No.2- Committee is contradicted by their own family tree. Similarly, the document at Serial No.3 of para-8 of the impugned order pertains to a birth extract of one Madhukar, born to Ganpat Dasru on 15/08/1940, showing the caste as Koshti. The said document is at record (Page 145). It is worth to mention here that the said document at record (Page 145) is contradicted by the another document procured by the Vigilance Cell itself pertaining to the aforesaid Madhukar born to Ganpat Dashrath, wherein the date of birth is shown as 15/07/1940. The aforesaid date of birth is also substantiated by the first page of the service book of Shri Madhukar Ganpat Nandanwar at record (Page 109), wherein the date of birth is 15/07/1940. The aforesaid two documents clearly contradicts the document at Sr. No. 3 relied upon by the respondent No.2 - Committee for invalidating the caste claim of the petitioner.

22. The document at Sr. No. 4 pertains to a birth extract of one son Ganpat born to Khobraji on 09/08/1943. The aforesaid document also contradicts the family tree as prepared by the Vigilance Cell, which shows that Khobraji had only two sons, Sambhaji and Narayan, and did not have son by name Ganpat. Hence, the said document also carries no evidentiary value. In view of the above, the aforesaid document is at Sr. No.4 also is of no help to the respondent No.2 - Committee for supporting its order dated 08/03/2023. The last documents at Sr. No. 5 is a Dakhal Kharij extract of Madhukar, wherein the caste is recorded as Koshti. However, the petitioner has relied upon the oldest

documents of the year 1926 at record (Page No.114), wherein the caste of the great-grandfather is shown as Halbi, and hence the said document is having more probative value than document of the year 1946.

23. In view of the above, the petitioner has successfully explained the contra entries relied upon by the Vigilance Cell and respondent No.2- Committee. The fact remains that the respondent No.2-Committee has not at all dealt with the aforesaid denials and explanations given by the petitioner in his reply at record (Page-149) and has invalidated the caste claim of the petitioner vide impugned order dated 08/03/2023 and thus, the impugned order clearly shows the non-application of mind on the part of the respondent No.2 - Committee.

24. The Hon'ble Apex Court in the case of ***Yogesh Madhav Makalwad Vs The State of Maharashtra and others reported in Civil Appeal No. __ of 2025 (Arising out of SLP (C) No. 27410 of 2024) dated 12/08/2025***, has held thus:-

8. *It can, thus, be seen that this Court held that while dealing with documentary evidence, greater reliance may be placed on pre-Independence documents because they furnish a higher degree of probative value to the declaration of status of a caste, as compared to post-Independence documents. Insofar as the applicability of the affinity test is concerned, the Court observed that a cautious approach has to be adopted. It has been observed that a few decades ago, when the tribes were somewhat immune to the cultural development happening around them, the affinity test could serve as a determinative factor. However, with the migrations, modernisation and contact with other communities, these communities*

tend to develop and adopt new traits which may not essentially match with the traditional characteristics of the tribe. It is, therefore, held that the affinity test may not be regarded as a litmus test for establishing the link of the applicant with a Scheduled Tribe. It has been held that merely because the applicant does not match the tribe's peculiar anthropological and ethnological traits, deity, rituals, customs, mode of marriage, death ceremonies, method of burial of dead bodies etc., it cannot be solely taken into consideration for rejecting the claim of belonging to the Scheduled Tribe."

25. Thus, reliance must be placed on the pre-Independence documents, as they carry a higher degree of probative value. The respondent No.2-Committee failed to appreciate this legal position, and therefore, the impugned order does not withstand the scrutiny of law as settled by the Hon'ble Apex Court. Consequently, the impugned order deserves to be quashed and set aside by this Court.

26. Apart from the grounds relating to the affinity test and the contra entries of *Koshti*, the respondent No.2-Committee has also relied upon the invalidation of the caste claim of the petitioner's paternal uncle, namely Shri Dilip Ganpat Nandanwar. It has been contended that Shri Dilip Nandanwar had accepted the said invalidation and never challenged the same before any forum. In this regard, it is pertinent to note that this Court has consistently held that the decision of the Scrutiny Committee in respect of one individual would bind only that particular claimant and not his blood relatives. The rationale is that the relatives are not parties to such adjudication proceedings, and therefore, the

findings therein cannot automatically operate against them. Each claimant is entitled to establish his or her own caste claim independently by producing cogent and relevant evidence sufficient to discharge the burden cast upon them under Section 8 of the Maharashtra Act No. 23 of 2001.

27. We find support for the aforesaid view in the judgment delivered by the Coordinate Bench at Aurangabad in ***Writ Petition No. 14111 of 2021 (Mangesh s/o Panditrao Thakur Vs The State of Maharashtra and others) decided on 12/03/2025***. In view of the above, the ground raised by the Committee is completely unsustainable in the eyes of law, and is accordingly rejected.

28. The respondent No.2 – Committee has also relied upon the validity certificate issued to Kunal Dilip Nandanwar, the paternal cousin of the petitioner. It is the contention of the respondent No.2 - Committee that the said Kunal Dilip Nandanwar, who is the blood relative of the petitioner had obtained validity certificate of Koshti - SBC Category. However, the aforesaid issue has already been considered and settled by this Court in ***Writ Petition No. 7256 of 2024 (Sauravkumar s/o Sunilkumar Katole Vs The Schedule Tribe Caste Certified Scrutiny Committee) decided on 07/08/2025***, wherein this Hon'ble Court in para Nos. 23 and 24 has held thus: -

23. It is finding recorded by the Caste Scrutiny Committee that some of the blood relatives obtained caste certificate as belonging to Special Backward Classes

24. Learned Counsel for the petitioner relied on Nishant s/o Sudhir Narnaware, (supra), wherein, in the matter of 'Mana' Scheduled Tribe, which was earlier in Special

Backward Classes and subsequently it was removed therefrom and included in the category of Scheduled Tribe. In such circumstances, the petitioner therein was granted validity certificate belonging to Scheduled Tribe. In the present matter in view of position then existing 'Halba', 'Halba Koshti' were enlisted in Special Backward Classes, subsequently they were removed.

Thus, in view of the findings of this Court on a similar issue, the ground raised by the respondent No.2 - Committee is found to be without any substance and is, therefore, rejected by this Court.

29. We find merit in the submissions advanced on behalf of the petitioner. It is held that respondent No.2-Committee failed to discharge its burden of proving the relationship of the alleged relatives with the petitioner. Consequently, the contra entries procured by respondent No.2-Committee could not have been used to invalidate the petitioner's caste claim. Similarly, the reasons recorded by the Committee pertaining to the affinity test, the invalidation of the caste claim of a blood relative, and the issuance of an SBC validity certificate to another blood relative are also unsustainable in the eyes of law, in view of the judgments of this Court cited supra.

30. Hence, for the aforesaid reasons, we are of the considered opinion that the impugned order dated 08/03/2023, passed by the respondent No.2 -Scheduled Tribe Caste Scrutiny Committee, Yavatmal, thereby invalidating the caste claim of the petitioner, is unsustainable in the eyes of law, and deserves to be quashed and set aside. Therefore, we proceed to pass the

following order.

ORDER

- a] The writ petition is **allowed**.
- b] The impugned order dated 08/03/2023, passed by the respondent No.2 – Scheduled Tribe Caste Certificate Scrutiny Committee, Yavatmal, invalidating the caste claim of the petitioner towards Halbi – Scheduled Tribe is hereby quashed and set aside.
- c] It is hereby held and declared that the petitioner belongs to Halbi – Scheduled Tribe Category.
- d] Respondent No.2- Committee is directed to issue a validity certificate to the petitioner towards the Halbi – Scheduled Tribe category within a period of four weeks from the date of receipt of this order.

31. Rule is made absolute in the above terms. Pending Application(s), if any, stand(s) **disposed of**.

(RAJ D. WAKODE, J.)

(M.S. JAWALKAR, J.)