



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

WRIT PETITION NO. 2363 OF 2024

- 1] Sunil s/o Gunwantrao Hedao,
Aged about 49 years,
Occupation-Service,
R/o. Anwarpura, Tq. Achalpur,
District-Amravati.
 - 2] Savita d/o Gunwantrao Hedao,
Aged about 47 years,
Occupation-Service,
R/o. Anwarpura, Tah. Achalpur,
District-Amravati.
 - 3] Manish s/o Gunwantrao Hedao,
Aged about 45 years,
Occupation-Service,
R/o. Anwarpura, Tq. Achalpur,
District-Amravati.
- .. Petitioners

.. Versus ..

- 1] The Schedule Tribe Caste Certificate
Scrutiny Committee, through its
Member Secretary and Deputy Director,
Sanna Building, Opp. Govt. Rest House,
Camp, Amravati-444 601.
 - 2] The Zilla Parishad, through its
Chief Executive Officer,
Amravati.
 - 3] The Education Officer,
Zilla Parishad (Primary),
Amravati.
- .. Respondents

Shri Anil S. Mardikar, Senior Advocate assisted by Shri Ashwin Deshpande, Advocate for the Petitioners.

Mrs. S.V. Kolhe, Assistant Government Pleader for Respondent No.1/State.

Shri D.M. Kale, Advocate for Respondent Nos.2 and 3.

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CORAM : SMT. M.S. JAWALKAR, AND
PRAVIN S. PATIL, JJ.

RESERVED ON : 14th JULY, 2025.
PRONOUNCED ON : 31st JULY, 2025.

JUDGMENT [Per : Pravin S. Patil, J.]

1. **Rule.** Rule made returnable forthwith. By consent of the learned Counsel for the parties, the matter is taken up for final disposal.

2. By the present petition, the petitioners are challenging the order dated 21.03.2024 passed by respondent no.1-The Schedule Tribe Caste Certificate Scrutiny Committee, Amravati Division, Amravati (for short 'respondent no.1-committee) whereby the caste certificate issued by the competent authority to the petitioners as a 'Halbi' Scheduled Tribe is rejected by invalidating the caste of the petitioners.

3. In brief, the case of the petitioners is that petitioner nos.1 to 3 are the relatives and belonging to the caste of 'Halbi'. They have obtained the caste certificates from the competent authority of caste 'Halbi' Scheduled Tribe, which is recognized as Scheduled Tribe in the State of Maharashtra and is included at Sr. No.19 in the Constitutional Scheduled Tribe Order, 1950.

4. The petitioner nos.1 and 2 are in service as a Teachers in Zilla Parishad, Primary School, Amravati and respondent no.3 is working at Amravati Municipal Corporation. The caste claim of petitioner no.1 was forwarded by Education Officer (Primary), Zilla Parishad, Amravati to the caste scrutiny committee on 12.07.2013 and caste claim of petitioner no.2 on 23.09.2013. The caste claim of petitioner no.3 was forwarded through office Superintendent, Municipal Corporation, Amravati on 23.11.2004.

5. Petitioners at the time of forwarding their caste claim, relied upon the pre-independence documents and particularly of father, grandfather and uncle which clearly shows their caste as a 'Halbi' Scheduled Tribe. On receipt of application of the petitioners, the respondent no.1-committee by invoking the

powers under Rule 12 (2) of the Maharashtra Scheduled Tribes (Regulation of Issuance and Verification of) Certificate Rules, 2003 (hereinafter referred to as 'Rules-2003') forwarded the documents produced by the petitioners to the Vigilance Cell for its verification. The Vigilance Cell has verified the documents relied upon by the petitioners and submitted its report on 13.12.2018 to the caste scrutiny committee.

6. The respondent no.1-committee on 03.02.2020 issued the show cause notice to the petitioners and thereby asked explanation over the report submitted by the Vigilance Cell. It is stated by the petitioners before committee, once the Vigilance Cell has prepared the genealogical tree in the matter, should not have relied upon the entries other than genealogical tree. As such, relying upon the entries of unknown persons without establishing their relation with petitioners, the same should not be relied upon.

7. In addition, Petitioners, while tendering their independent explanation to the respondent no.1-committee, raised specific objection against the report of the Vigilance Cell by stating that Vigilance Cell is required to verify the documents

which are only referred to them by the caste scrutiny committee. It is not expected from Committee to gather evidence on its own to prove or disprove the caste claim.

Petitioners had specifically denied the relations with Ku. Anita Gautam Gadmade, Pawankumar Pandurang Wagh and made request to the respondent no.1-committee to consider the pre-independence documents which were submitted by them along with their application. The petitioners specifically stated in their explanation that though Vigilance Cell is supposed to verify the documents submitted by the petitioners, it is seen from the record, the officer has not collected oldest entry of the grandfather of the petitioners namely Nagoji Dattuji for the year 1931 from Nagar Parishad which clearly shows the caste 'Halbi'.

8. Considering the manner in which the Vigilance Cell submitted the report, the petitioners along with their explanation produced additional pre-independence entries of grandfather and great grandfather during the period 1931 to 1948 before the respondent no.1-committee. As such, on the basis of this document, it is again stated that the petitioners

belongs to caste 'Halbi' Scheduled Tribe.

9. The respondent no.1-committee, in view of pre-independence documents submitted by the petitioners, was supposed to look into the validity of the same, but instead of doing so, the matter was again referred to the Vigilance Cell for its verification. The Vigilance Cell accordingly submitted its report on 03.02.2020 to the respondent no.1-committee. The respondent no.1-committee, on the basis of Vigilance Cell report, issued show cause notice to the petitioners and asked thereby explanation from the petitioners.

10. It is seen from the record that on the basis of Vigilance Cell report, the respondent no.1-committee decided the caste claim of the petitioners by common order dated 27.07.2021 and thereby invalidated the caste claim by holding that the petitioners does not belongs to caste 'Halbi' Scheduled Tribe.

11. The said order of the scrutiny committee dated 27.07.2021 was the subject matter of challenge before this court in Writ Petition No.2958/2021. The said petition was finally decided by this court by order dated 31.07.2023 by

making observations as under :

2. The petitioner in support of his claim of belonging to 'Halbi' Scheduled Tribe heavily relied upon documents dated 07/01/1938 and 04/04/1944 of his forefathers which had the entry 'Halbi'. The Vigilance Cell in its report has found these documents with the aforesaid entry. However, the Vigilance Cell further found three documents of 1946 and two documents of 1948 with the entry 'Koshti'. The documents of 1946 are of Sudam Dattuji, Kashinath Nagoji and Sadashiv Tilluji while documents of 1948 are of Ramchandra Nagoji and Sadashiv Vishnuji. In the reply filed by the petitioner to the report of the Vigilance Cell a specific stand was taken that the said five persons with regard to whom documents of 1946 and 1948 respectively were referred were not related to the petitioner. Such stand was taken in detail by giving reasons as to why the said five documents should not be relied upon. However while passing the impugned order the Scrutiny Committee has not dealt with the petitioner's objection in that regard. On the contrary, in view of the documents of 1946 and 1948, it proceeded to invalidate the petitioner's claim.

3. After hearing the learned counsel for the parties and after perusing the record maintained by the Scrutiny Committee, it is clear that the specific stand taken by the petitioner that the persons named in the documents of 1946 and 1948 respectively were not related to the petitioner has not been dealt with by the Scrutiny Committee. It was necessary for the Scrutiny Committee to have adjudicated upon those documents since the Vigilance Cell has found that the documents of 1938 and 1944 have the entry 'Halbi'. **If the documents of 1946 and 1948 are excluded from consideration, the petitioner's claim could be substantiated by the documents of 1938 and 1944.** Since there is failure on the part of the Scrutiny Committee in specifically dealing with the clear stand taken by the petitioner, there is no option but to set aside the impugned

order for failure to consider the petitioner's reply. The proceedings are required to be adjudicated afresh by directing Scrutiny Committee to give a finding on the stand taken by the petitioner with regard to the documents of 1946 and 1948.

4. Hence for aforesaid reasons, following order is passed :

(i) *The order dated 27/07/2021 passed by the Scrutiny Committee is set aside. The proceedings are remanded to the Committee for fresh consideration.*

(ii) *The petitioner shall appear before the Scrutiny Committee on 07/08/2023 to facilitate such re-consideration.*

(iii) *Since the entire exercise of undertaking vigilance enquiry has been completed, it is expected that the claim would be decided by taking into consideration a specific stand taken by the petitioner to discard the documents of 1946 and 1948. Petitioner's reply as a whole shall be taken into consideration. The Scrutiny Committee is free to make necessary enquiry in that regard to gather the relationship of the petitioner with the said two persons.*

(iv) *Since a limited exercise is required to be undertaken, the process of validation be completed within a period of three months from the date of the petitioner's appearance.*

(v) *Since the process of verification is complete, the services of the petitioner shall not be disturbed for want of validity certificate.*

12. From the observations made by this court, it is revealed that this court while remanding back the proceeding to the

respondent no.1-committee made it clear that the respondent no.1-committee failed to consider the objection of the petitioners that the documents of 1946 belonging to Sudam Dattuji, Kashinath Nagoji and Sadashiv Tilluji, while the documents 1948 are of Ramchandra Nagoji and Sadashiv Vishuji, who are not related to the petitioners. Hence, by discarding the documents of 1946 and 1948, the petitioners' claim be considered on the basis of the documents of year 1938 and 1944, which are relied upon by petitioners.

13. In view of the order passed by this Court, it is expected from the respondent no.1-committee to decide the caste claim on the basis of available documents produced by the petitioners and particularly by discarding the documents of 1946 and 1948. However, it is seen from the record that the respondent no.1-committee has again referred the entire documents to the Vigilance Cell for its verification. Accordingly, the Vigilance Cell submitted its report to the caste scrutiny committee on 29.12.2023. The Vigilance Cell, in its report, this time relied upon the entries of one Bhami alias Dattu, Sonai Mard Dattu, Dattu Gangaram and Dattuji Dewaji by alleging that they being

the forefathers of the petitioners and entries in their name as per the record is of years between 1918 to 1921, hence are relevant in the matter.

14. The petitioners on 02.02.2024 submitted their explanation to the respondent no.1-committee and clarified that in the order of this court dated 31.07.2023, it was directed to decide the caste claim on the documents submitted by the petitioners of year 1938 and 1944. However, the committee has unnecessarily done the exercise to refer the matter again to Vigilance Cell and Vigilance Cell by exceeding its powers collected the documents without establishing relations of them with petitioners' family. Hence, such vigilance report is not tenable, accordingly same should not be relied upon.

15. Be that as it may, the petitioners also tendered their explanation on the documents relied by the Vigilance Cell. The petitioners specifically denied any relations with Bhami alias Dattu and Sonai Mard Dattu, as they are not related with the petitioners nor shown in the family tree. In respect of entries of 1920-2021 of Dattu Gangaram and Dattuji Dewaji, it was stated that the same were produced earlier by the Vigilance

Cell in its report dated 22.09.2022, but the same was denied because those persons are not the great grandfathers of the petitioners. Furthermore, the Vigilance Cell failed to establish any relations of the petitioners with the said persons before relying upon the said entries.

16. In the background of above said factual position, the respondent no.1-committee again sent back the documents to the Vigilance Cell for re-enquiry into the matter. After the re-enquiry, the Vigilance Cell submitted its report on 22.02.2024 and submitted its report to the respondent no.1-committee. Accordingly, the respondent no.1-committee issued show cause notice to the petitioners on 22.02.2024 stating thereby that in the kotwal book, the entries in the name of cousin great grandfather namely Talaji, Tallaji and Tanye alias Taluji were found which shows the caste of forefathers of the petitioners as 'Koshti'. As such, explanation was sought from the petitioners.

17. The present petitioners tendered their explanation to the respondent no.1-committee on 27.02.2024 and again reiterated that the procedure adopted by the respondent no.1-

committee is in violation of the directions issued by this court in Writ Petition No.2958/2021 decided on 31.07.2023. On merits, it is explained by the petitioners to the respondent no.1-committee that the Police Vigilance Cell, vide its report dated 22.02.2024 relied upon the entries in the name of 'Tallaji', but in the family tree name recorded is 'Tilluji'. Hence, Tallaji and Tilluji are two different persons and are not related to each other. It is further explained that the document relied by the Vigilance Cell of year 1924 is the document belonging to Talaji and not to Tilluji. It is further clarified that there is no such Talaji in the family tree and, therefore, all the documents procured by Vigilance Officer are completely of different names such as Talaji, Tallaji and Taaluji and Tanye. Hence, unless the Vigilance Cell establish the relations of such persons with the petitioners, the entries recorded in the name of such persons can not be relied upon. As such, it is stated that Vigilance Cell had gathered the evidence on its own to disprove the claim of the petitioners and same is not permissible as per the settled principles of law.

18. In the background of above said factual position, the respondent no1-committee, by the impugned order dated 21.03.2024, invalidated the caste claim of Petitioners and confiscated the caste certificates by holding that the same has been obtained by fraud.

19. In the background of above said factual position, we have heard the respective counsel and perused the documents available on record as well as the case laws relied by the petitioners.

20. At the outset, it will be profitable to discuss the certain case laws by which the legal position is made clear by the Hon'ble Supreme Court of India on the issue, as to how, committee should adhere the procedure while deciding caste claim.

(i) Firstly, the case of *Anand .vs. Committee for Scrutiny and Verification of Tribe Claims and others, reported in 2011 (6) Mh.L.J. 919*, the Hon'ble Supreme Court has observed in paras 18 and 19 as under :

18. It is manifest from the afore-extracted paragraph that the genuineness of a caste claim has to be considered not only on a thorough examination of

the documents submitted in support of the claim but also on the affinity test, which would include the anthropological and ethnological traits etc., of the applicant. However, it is neither feasible nor desirable to lay down an absolute rule, which could be applied mechanically to examine a caste claim. Nevertheless, we feel that the following broad parameters could be kept in view while dealing with a caste claim:

(i) 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. In case the applicant is the first generation ever to attend school, the availability of any documentary evidence becomes difficult, but that ipso facto does not call for the rejection of his claim. In fact the mere fact that he is the first generation ever to attend school, some benefit of doubt in favour of the applicant may be given. Needless to add that in the event of a doubt on the credibility of a document, its veracity has to be tested on the basis of oral evidence, for which an opportunity has to be afforded to the applicant;

(ii) While applying the affinity test, which focuses on the ethnological connections with the scheduled tribe, a cautious approach has to be adopted. 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. Hence, affinity test may not be regarded as a litmus test for establishing the link of the applicant with a Scheduled Tribe. Nevertheless, the claim by an applicant that he is a part of a scheduled tribe and is entitled to the benefit extended to that tribe, cannot per se be disregarded on the ground that his present

traits do not match his tribes' peculiar anthropological and ethnological traits, deity, rituals, customs, mode of marriage, death ceremonies, method of burial of dead bodies etc. Thus, the affinity test may be used to corroborate the documentary evidence and should not be the sole criteria to reject a claim.

19. Needless to add that the burden of proving the caste claim is upon the applicant. He has to produce all the requisite documents in support of his claim. The Caste Scrutiny Committee merely performs the role of verification of the claim and therefore, can only scrutinise the documents and material produced by the applicant. In case, the material produced by the applicant does not prove his claim, the Committee cannot gather evidence on its own to prove or disprove his claim.

(ii) Secondly, the case of ***Maharashtra Adiwas***

Thakur Jamat Swarakshan Samiti .vs. State of Maharashtra and

others, reported in 2023 SCC Online SC 326, the Hon'ble

Supreme Court has observed in paras 19 and 20 as under :

19. Sub-rule (2) of Rule 12 clearly provides that only if the Scrutiny Committee is not satisfied with the documentary evidence produced by the applicant, it shall forward the application to the Vigilance Cell for conducting the school, home and other enquiry. Therefore, in every case, as a matter of routine, the Scrutiny Committee cannot mechanically forward the application to Vigilance Cell for conducting an enquiry. When sub-rule (2) of Rule 12 contemplates that only if the Scrutiny Committee is not satisfied with the documents produced by the applicant that the case should be referred to Vigilance Cell, it follows that the Scrutiny Committee is required to pass an order recording brief reasons why it is not satisfied with the documents produced by the

applicant. Before referring the case to the Vigilance Cell, application of mind to the material produced by the applicant is required and therefore, the application of mind must be reflected in the order sheets of the Scrutiny Committee.

20. It is not possible to exhaustively lay down in which cases the Scrutiny Committee must refer the case to Vigilance Cell. One of the tests is as laid down in the case of Kumari Madhuri Patil¹. It lays down that the documents of the preConstitution period showing the caste of the applicant and their ancestors have got the highest probative value. For example, if an applicant is able to produce authentic and genuine documents of the preConstitution period showing that he belongs to a tribal community, there is no reason to discard his claim as prior to 1950, there were no reservations provided to the Tribes included in the ST order. In such a case, a reference to Vigilance Cell is not warranted at all."

(iii) Thirdly, the case of *Priya w/o Pravin Parate .vs.*

Scheduled Tribes Caste Certificates Scrutiny Committee,

Nagpur and others, reported in 2013 (1) Mh.L.J. 180, this court

observed in para 10 as under :

10. In so far as the reliance on some of the entries pertaining to petitioners relatives from paternal side showing caste to be 'Koshti' on which Mrs. Deshpande, learned Counsel relies, are concerned, perusal of the said document would reveal that though the caste of the said person is written as Koshti, the profession is also shown as weaving. As can be seen from the Gazetteer of Amravati District, that Halbi's in erstwhile Ellichpur and Anjangaon Surji in Daryapur Taluq in Amravati District were also engaged in the profession of weaving. It is common knowledge that persons engaged in the profession of weaving were called as "Koshti". A possibility cannot

be ruled out that due to this, said entries might have recorded. It is also relevant to refer to some portion from the authority of R.V. Russell on Tribes and Casts of the Central Provinces of India, published in 1916, wherein while dealing with the Halba Tribe, it has been stated that "Some of these soldiers may have migrated west and taken service under the Gond Kings of Chanda, and their descendants may now be represented by the Bhandara Zamindars, who, however, if this theory be correct, have entirely forgotten their origin. Others took up weaving and have become amalgamated with the Koshti caste in Bhandara and Berar."

From the aforesaid authority, it would reveal that persons belonging to Halba Tribe had migrated to west and taken service under the Gond Kings of Chanda. It can also be seen that some of them had taken to weaving and had amalgamated with the Koshti caste in Bhandara and Berar. Merely because some stray entries as "Koshti" are recorded in respect of caste of some of the relative of petitioners from their paternal side; the voluminous documentary evidence of pre-Constitution era which clearly certify the petitioners great-grand father and his brothers to be Halbi, could not have been lightly brushed aside by the Scrutiny Committee. As discussed herein above, the Hon'ble Apex Court in case of Anand (supra), found that the pre-Independence documents have a greater probative value and they should be given due consideration while considering the claim of a tribal."

(iv) Fourthly, the case of ***State of Maharashtra .vs.***

Milind and others, reported in 2001 (1) Mh.L.J. 1, wherein

Hon'ble Supreme Court of India in para 34 has observed as

under :

34. *In the light of what is stated above, the following positions emerge:-*

1. *It is not at all permissible to hold any enquiry or let in any evidence to decide or declare that any tribe or tribal community or part of or group within any tribe or tribal community is included in the general name even though it is not specifically mentioned in the concerned Entry in the Constitution (Scheduled Tribes) Order, 1950.*

2. *The Scheduled Tribes Order must be read as it is. It is not even permissible to say that a tribe, sub-tribe, part of or group of any tribe or tribal community is synonymous to the one mentioned in the Scheduled Tribes Order if they are not so specifically mentioned in it.*

3. *A notification issued under Clause (1) of [Article 342](#), specifying Scheduled Tribes, can be amended only by law to be made by the Parliament. In other words, any tribe or tribal community or part of or group within any tribe can be included or excluded from the list of Scheduled Tribes issued under Clause (1) of [Article 342](#) only by the Parliament by law and by no other authority.*

4. *It is not open to State Governments or courts or tribunals or any other authority to modify, amend or alter the list of Scheduled Tribes specified in the notification issued under Clause (1) of Article 342.*

5. *Decisions of the Division Benches of this Court in [Bhaiya Ram Munda vs. Anirudh Patar & others](#), 1971 (1) SCR 804 and [Dina vs. Narayan Singh](#), 38 ELR 212, did not lay down law correctly in stating that the enquiry was permissible and the evidence was admissible within the limitations indicated for the purpose of showing what an entry in the Presidential Order was intended to be. As stated in position (1) above no enquiry at all is permissible and no evidence can be let in, in the matter.*

21. On perusal of the record, it is clear that this court, while remanding back the matter to the caste scrutiny committee vide its order dated 31.07.2023, had given specific directions that by discarding the documents of 1946 and 1948 which were relied upon by the committee in earlier round of litigation to decide the caste claim of the petitioner. From the tenor of the findings recorded by this court, it is clear that this court is of the opinion that the respondent no.1-committee by considering the documents furnished by the petitioners of pre-independence era should decide the caste claim of the petitioners. Therefore, considering the limited exercise required to be undertaken by the caste scrutiny committee directed to conduct the enquiry within a period of three months. However, what we find that instead of relying the documents placed on record by the petitioners of pre-independence era, the respondent no.1-committee in violation of the directions of this court conducted re-enquiry and relied upon the documents collected by the Vigilance Cell were not the part of record and thereby decided the caste claim of the petitioners. Hence, prima facie, we are of the opinion that the respondent no.1-

committee failed to adhere the directions issued by this court.

22. It is clear from the record petitioners have relied upon pre-independence documents, particularly of the year between 1938 to 1950 which clearly shows that the father, grandfather and uncle belongs to the caste of 'Halbi'. The said documents are part of record and we have occasioned to look into the said documents. Prima facie, we do not find any ambiguity in the said documents. The entry of caste recorded is clear as 'Halbi' and their relations are established with petitioners. Hence, there is no reason to discard the pre-independence documents.

23. It is pertinent to note that the respondent no.1-committee, while recording the reasons, as to whether the petitioners on the basis of documentary evidence, proved their caste as 'Halbi' Scheduled Tribe or not, has specifically recorded the findings that the documents submitted by the petitioners at Sr. Nos. 6, 7, 9, 10, 11, 14, 15, 16, 17, 19, 20, 23 and 24 are belonging to the father, grandfather and uncle of the petitioners. It is further recorded that as per the school and revenue record the said entries found to be caste of 'Halbi'. However, the reason is recorded to not consider these

documents that the Vigilance Cell has collected the entries of alleged relatives in between 1918 to 1938 which shows the caste as 'Koshti'. As such, it is clear that the respondent no.1-committee has given much importance to the findings of the Vigilance Cell and particularly of those alleged relatives with whom the petitioners have specifically denied their relations. Hence, prima facie, we find perversity in the impugned order of the respondent no1-committee.

24. It is pertinent to note that the petitioners in their reply to the show cause notices issued by the respondent no.1-committee specifically denied their relations with one Bhami vald Dattu, Sonai Mard Dattu, entry of daughter in the name of Talaji and others. Therefore, it was obligatory on the part of the respondent no1-committee to establish on record as to how these persons are related with the petitioners and after establishment of their relations could have relied upon the entries. However, merely on the basis of common name as Tallaji, it seems that the respondent no1-committee has relied upon the said entries. However, there is no discussion in the impugned order on the objection and explanation submitted by

the petitioners time to time before them in the matter. As such, it can be concluded that committee gathered evidence on its own to disprove the caste claim. According to us, we are of the opinion that the respondent no.1-committee has violated the parameters laid down by the Hon'ble Supreme Court of India in the case of **Anand** (supra).

25. It is seen from the record that as and when the petitioners submitted the documents which are pre-independence documents, every time same was referred to the Vigilance Cell. We do not find any reasons recorded by the respondent no.1-committee as to why committee each time feels necessary to refer the documents to the Vigilance Cell. The Rule 12 (2) of the Rules, 2003 clearly states that there should be application of mind while referring the documents to the Vigilance Cell and same should not be done as a routine matter. This issue is clarified by the Hon'ble Supreme Court of India in the case of **Adiwasi Thakur Jamat Swarakshan Samiti** (supra), but it seems that there is a violation of the Rule 12 (2) of the Rules, 2003 in the matter.

26. It is now well settled position of law that pre-independence document is having a more probative value and same should be considered by the respondent no.1-committee. The affinity test is not a litmus test to decide the caste claim and is not an essential part in the process of determination of a correctness of a caste or tribe claim in every case. As such, the documents of pre-constitution period showing the caste of the applicant and their ancestors by producing the genuine documents, there is no reason to the committee to discard the claim of the candidate by relying the other entries which were not produced by the applicant and specifically denied by the petitioners in the matter. Hence, considering the settled principles of law, the impugned order does not stand to the scrutiny of law and deserves to be rejected.

27. The petitioners have rightly relied upon the Section 8 of 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, according to which, burden of proving that the

person belonging to a particular caste is on the claimant/applicant. Applicant has to prove the documents which he relied upon. From the record, it is clear that petitioners discharged their burden to prove the documents which they have relied upon. In the same manner, it is submission of petitioners that in case the respondent no.1-committee is relying upon certain documents procured through Vigilance Cell, then the burden is shifted upon the respondent no.1-committee to prove the same beyond doubt. However, in the present case, it is found that the respondent no.1-committee has merely relied upon the documents collected by the Vigilance Cell. But before relying upon the said documents, it is not established on record that the said persons are in real relation with the petitioners' family and the part of genealogical tree which was prepared during the course of enquiry by the Vigilance Cell. As such, it is the submission of the petitioners that the respondent no.1-committee failed to discharge their burden and, therefore, the documents relied upon by them are to be discarded in the matter.

28. We find merit in the submission of the petitioners and hold that the respondent no.1-committee failed to discharge its burden to prove the relations of the alleged relatives with the petitioners and, therefore, the document relied by them cannot be the reason to invalidate the caste of the petitioners.

29. Hence, for above said reasons, we are of the considered opinion that the impugned order being unsustainable, same is liable to be quashed and set aside. Hence, we proceed to pass the following order :

O R D E R

- (i) The writ petition is allowed.
- (ii) The impugned order dated 21.03.2024 passed by Respondent no.1-The Schedule Tribe Caste Certificate Scrutiny Committee, Amravati is hereby quashed and set aside.
- (iii) It is hereby held and declared that the petitioners proved that they belong to 'Halbi' Scheduled Tribe category.
- (iv) Respondent no.1-Committee is hereby directed to issue 'Halbi' Scheduled Tribe category certificate to the petitioners within a period of four weeks from the date of receipt of this order.

(v) On production of the caste validity certificates, the Respondent nos.2 and 3 shall take necessary steps in the service record of the petitioners and protect their services, if they are not otherwise disqualified.

30. Rule is made absolute in the above terms.

(Pravin S. Patil, J.)

(Smt. M.S. Jawalkar, J.)