



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

WRIT PETITION NO.4285 OF 2023

PETITIONER : **Mangala w/o Shankar Chauhan,**
aged about 32 years, occupation :
household/agriculturist, r/o At Nimbi,
Post Arakh Tq. Mangrulpir, Dist.
Washim.

..VERSUS..

RESPONDENTS : 1. District Caste Certificate Verification
Committee, Washim through its
Secretary Office at Babasaheb Ambedkar
Samajik Nyay Bhavan, Nalanda Nagar,
Chikhli Surve Road, Washim.
2. **Kusum Janardhan Surashe,**
aged adult, occupation: agriculturist, r/o
At Nimbi, Tq. Mangrulpir, Dist.
Washim.
3 **Gram Panchayat Nimbi,** through its
Secretary, Tq. Mangrulpir Dist. Washim.

Shri O. A. Ghare, Advocate for Petitioner.
Shri J. Y. Ghurde, Asst. G. P. for Respondent/State.
Shri Tejas Deshpande, Advocate for Respondent No.2.

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

RESERVED ON : **15th SEPTEMBER, 2025.**

PRONOUNCED ON : **28th NOVEMBER, 2025.**

JUDGMENT : (PER : RAJ D. WAKODE, J.)

1. Heard Shri. O. A. Ghare, learned counsel for
petitioner, Shri. J. Y. Ghurde, learned Assistant Government

Pleader for respondent No.1/State and Shri. Tejas Deshpande, learned counsel appearing for respondent No.2.

2. **Rule.** Rule made returnable forthwith. The writ petition is heard finally with the consent of learned counsel appearing for the parties.

3. The petitioner by way of the present petition seeks challenge to the impugned order dated 02.06.2023 passed by the respondent No.1 – District Caste Certificate Scrutiny Committee, Washim, thereby validating the caste claim of respondent No.2 towards “Kunbi” Other Backward Class.

4. Facts in brief leading to the present petition are as follows :

4.1. The respondent No.2 claimed belonging to “Kunbi” Caste which is recognized as Other Backward Class (OBC) within the State of Maharashtra. The Competent Authority has granted to respondent No.2 Caste Certificate dated 20.12.2020 belonging to “Kunbi” Caste. The respondent No.2 had contested the elections for the post of Member reserved for Women Category General of Gram Panchayat Nimbi, Taluka

Mangrulpir, District Washim. The respondent No.2 was declared as elected on 18.01.2021 and Certificate to that effect dated 20.01.2021 was issued to her. Thereafter, the respondent No.2 was elected as Sarpanch by the elected members on the seat reserved for Other Backward Classes. The claim of the respondent No.2 was referred to the respondent No.1 - Committee for verification by the office of Tahsildar, Mangrulpir *vide* its communication dated 28.12.2020. The respondent No.2, to substantiate her claim of belonging to “Kunbi” Other Backward Classes, relied on documentary evidence of herself and her ancestors. She had submitted her genealogical tree along with documentary evidence to respondent No.1-Committee.

4.2. The Scrutiny Committee referred the claim of respondent No.2 to the Police Vigilance Cell and the Police Vigilance Cell in its report dated 11.04.2022 found that the oldest pre-constitutional document submitted by the respondent No.2 of her grandfather as genuine.

4.3. The Scrutiny Committee instead of relying upon the oldest pre-constitutional document and issuing validity

certificate in favour of the respondent No.2, erroneously passed order dated 08.07.2022, thereby invalidating the claim of the present respondent No.2. Pursuant to passing the order dated 08.07.2022 by respondent No.1 - Committee, the Collector, Washim, passed order dated 01.11.2022 thereby disqualifying the respondent No.2 for a period of 6 years under the provisions of the Maharashtra Village Panchayats Act, 1958. Being aggrieved by the said impugned orders dated 08.07.2022 and 01.11.2022 passed by the respondent No.1 – Committee and the Collector, Washim, the respondent No.2 herein approached this Court by filing Writ Petition No.7076 of 2022. On 25.04.2023, this Court heard the said writ petition finally and remanded the matter to respondent No.1 – Committee with following observations :

“The petitioner has filed the pre-constitutional document which shows that the great grandfather and father of the petitioner belong to Kunbi caste i e. OBC. In reply, it appears that the Hakka Nondani Register wherein the caste is mentioned as 'Maratha', but the document which the petitioner has produced in the Court is similar document which shows that the caste is mentioned as 'Kunbi'. The document which is on the record of the Caste Scrutiny Committee and the document which the petitioner has referred are different. Only on the basis of the said documents, the Scrutiny Committee has rejected the caste claim of the petitioner. Therefore, it will be justifiable to remand the claim of the petitioner

to the Scrutiny Committee to reconsider it by allowing the petitioner to produce said documents on record and verify it. We, therefore, quash and set aside the order passed by the Caste Scrutiny Committee dated 08.07.2022 and also the order passed by the respondent No. 2 - Collector dated 01.11.2022.

Direction is given to the respondent No.1 - Caste Scrutiny Committee to reconsider the validity of the petitioner within a period of two months from the date of this order by considering the documents submitted by the petitioner.”

5. The petitioner had produced on record of this Court a document pertaining to Hakka Nondani Register wherein, the caste of her father was recorded as “Kunbi” in the year 1942. This Court, *vide* its judgment dated 25.04.2023, had directed the respondent No.1 – Committee to reconsider the claim of the petitioner – respondent No.2 herein within the time stipulated by considering the documents submitted by the respondent No.2.

6. In compliance of the judgment passed by this Court in Writ Petition No.7076 of 2022, the respondent No.2 appeared before the respondent No.1 – Committee on 19.05.2023 and placed on record the aforesaid document of Hakka Nondani Register for Mouja Pimpri wherein, the caste of Shri. Janardhan Kisan Kunbi, residence of Nimbi, Taluka

Mangrulpir, District Washim, the father of respondent No.2 was recorded as “Kunbi” in the year 1942. The aforesaid document is at record page No.37 Annexure – D. The aforesaid document is a pre-constitutional document and much before the cut-off date. Thus, the respondent No.1 – Committee, in compliance of the directions of this Court, forwarded the aforesaid document for verification to the Police Vigilance Cell. The Police Vigilance Cell conducted an enquiry and submitted its report on 23.05.2023 *vide* outward No.532. The Police Vigilance Cell verified the aforesaid document from the original record of the Tahsildar, Mangrulpir, who also issued the certified copy of the aforesaid document on 22.05.2023. Thus, the Police Vigilance Cell of respondent No.1 – Committee had verified the aforesaid document and found it to be genuine. On the basis of the Police Vigilance Cell Report dated 23.05.2023, the respondent No.1 – Committee has validated the caste claim of respondent No.2 towards “Kunbi” Other Backward Class. It is worthwhile to mention here that the respondent No.2 has substantiated her caste claim on the basis of a pre-constitutional document pertaining to the year 1942 and thus, the said document is having higher degree of probative value.

7. Shri. Tejas Deshpande, learned counsel appearing for respondent No.2 has relied upon the judgment of the Hon'ble Apex Court in the case of **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti vs. The State of Maharashtra and ors**, Civil Appeal No.2502 of 2022, wherein the Hon'ble Apex Court held that :

“(b) for the reasons which we have recorded, affinity test cannot be conclusive either way. When an affinity test is conducted by the Vigilance Cell, the result of the test along with all other material on record having probative value will have to be taken into consideration by the Scrutiny Committee for deciding the caste validity claim, and

(c) In short, affinity test is not a litmus test to decide a caste claim and is not an essential part in the process of the determination of correctness of a caste or tribe claim in every case.”

8. Learned counsel for respondent No.2 also relied on **Priya Pramod Gajbe Vs. State of Maharashtra and others**, reported in **2023 SCC OnLine SC 909**, wherein Hon'ble Apex Court relied on citation in **Anand V. Committee for Scrutiny and Verification of Tribe Claims, (2012) 1 SCC 113**, wherein the Hon'ble Apex Court held in **paragraph No.12** as under:

“22. (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, modernization 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, the 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 tribe's 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."

9. Thus, the Hon'ble Apex Court in the above referred judgment of Maharashtra Adiwasī Thakur Jamat Swarakshan Samiti (*supra*) has held that the affinity test is not a litmus test to decide a caste claim and is not an essential part in the process

of the determination of correctness of a caste or tribe claim in every case. So also the Hon'ble Apex Court in the case of Priya Pramod Gajbe (*supra*) has held that while dealing with documentary evidence, greater reliance may be placed on a pre-independence documents because they furnish a higher degree of probative value to the declaration of status of a caste and if they are pre-constitutional documents, the claim of the applicant cannot be disregarded on the grounds of affinity test which is only used to corroborate the documentary evidence and should not be the sole criteria to reject the claim.

10. In the present case, the respondent No.2 had proved her caste claim on the basis of a documentary evidence, which is pre-constitutional and hence, the submission of the learned counsel for the petitioner Shri. Omkar Ghare that the respondent No.1 – Committee should have rejected the caste claim of respondent No.2 by conducting the affinity test is unsustainable in the eyes of law.

11. Shri. Ghare, learned counsel for the petitioner vehemently argued that the name of the father of respondent No.2 is nowhere reflected in the record of rights for survey

No.88 and thus, the document relied upon by the respondent No.2 is fraudulent.

12. At the outset, we record that the document relied upon by respondent No.2 pertaining to the year 1942 has been duly verified by the Police Vigilance Cell of respondent No.1 – Committee and is found to be genuine. Also, there is no reason for Revenue Officer i.e. Tahsildar, Mangrulpir to give false opinion and fabricated certified copy of the aforesaid document in favour of respondent No.2 and hence, the aforesaid submission of the petitioner deserves to be rejected on this count alone. However, the petitioner herself has contended that the documents placed at Annexure – E record page No.38 onwards are the chronological record of the record of rights for survey No.88. The revenue officer's record shows the names of the owners of agricultural lands year-wise. The extract produced by the petitioner for every year shows the names of the owners of various agricultural lands wherein, the owner of survey No.88/3 is shown as Bhika Vithoba Kunbi. The document which is at record page No.37 Annexure - D relied by the Committee for granting validity to respondent No.2

reveals that the owner of survey No.88/3 is Bhika Vithoba Kunbi. However, it is not a case of respondent No.2 or the respondent No.1 – Committee that the father of respondent No.2 i.e. Janardhan Kisan Kunbi was the owner of survey No.88/3. The aforesaid document only points out that the owner Bhika Vithoba Kunbi has given some part of the agriculture land bearing survey No.88/3 to Janardhan Kisan Kunbi on contract basis for cultivation. It is this entry which shows the caste of Janardhan Kisan recorded as Kunbi. In view of the above, the challenge raised by the petitioner to the aforesaid document is not sustainable in the eyes of law and deserves to be rejected.

13. Shri. J. Y. Ghurde, learned Assistant Government Pleader, has supported the impugned order dated 25.04.2023 and has narrated in detail as to how the Police Vigilance Cell has conducted the enquiry and found the aforesaid document as genuine. The relevant paras of the reply filed by respondent No.1 – Committee substantiating the same are reproduced as below :

“5. It is submitted that, this Hon'ble Court in Writ Petition No. 7076/2022 vide order dated 25.04 2023

allowed the Writ Petition filed by the Respondent No.2 and thereby directed the answering respondent Committee to reconsider the validity of the petitioner within a period of two months from the date of this order by considering the documents submitted by the Respondent No.2.

6. *It is submitted that, on 10.05.2023, the Respondent No.2 had filed document of Hakka Nondni before the answering respondent Committee. After perusing the documents and order of this Hon'ble Court dated 25.04.2023 the answering respondent decided to hand over the Hakka Nondni to the Vigilance Cell for further detailed enquiry and immediately hand over the case of Respondent No.2 to the Vigilance Cell for further enquiry.*

7. *It is submitted that, the Vigilance Cell submitted its report to the answering respondent Committee on 23.05.2023. After perusal of the said report, it is revealed that the Vigilance Cell has verified the document of Hakka Nondni genealogical tree relation with the Respondent No.2 with her father's document i.e. Hakka Nond. The said report further shows that Janardhan Kisan Kunbi residence of Nimbi village and this Hakka Nond mentioned year-1942 and as per said document, the caste Kunbi is recognized as OBC at Sr.No.83 under Government Resolution CBC-1467/M dated 13.10.1967.*

8. *It is submitted that, the answering respondent committee has accepted the Report of Vigilance Cell and on the basis of vigilance cell report, document submitted with seal and sign of the Tahsildar. Mangrulpur and the direction of this Hon'ble Court, the answering respondent committee pleased to validate the caste claim of the petitioner vide order dated 02.06.2023 and granted him social status validity of caste 'Kunbi' OBC."*

14. In view of the aforesaid discussion, we are of the considered opinion that the challenge raised by the petitioner

to the order dated 02.06.2023 passed by respondent No.1 – District Caste Certificate Scrutiny Committee, Washim, thereby validating the caste claim of respondent No.2 towards “Kunbi” Other Backward Class is without any merit. Hence, we proceed to pass the following order :

ORDER

- i) Writ Petition No.4285 of 2023 is **dismissed**. No order as to cost.

(RAJ D. WAKODE, J.)

(SMT. M. S. JAWALKAR, J.)