



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

WRIT PETITION NO. 5860 OF 2024

Moiz Khan S/o Muneer Khan
age : 40 years, Occ : Service
R/o. Raj Mohalla Deulghat,
Tah. & District - Buldhana

} .. **Petitioner**

Versus

1. Scheduled Tribe Certificate
Verification Committee, Amravati
Division, Amravati, through its
Member/Secretary
2. Municipal Council Malkapur,
Through its Chief Officer,
Tah. Malkapur, Distt. Buldhana

} .. **Respondents**

Mr. R.D.Karode, Advocate for petitioner.

Ms.T.H.Khan, Assistant Government Pleader for respondent No.1.

Mr. Abhay Sambre, Advocate for respondent No.2.

CORAM : AVINASH G. GHAROTE AND
ABHAY J. MANTRI, JJ.

DATED : (09/05/2025)

JUDGMENT (PER : ABHAY J. MANTRI, J.)

Heard. **Rule.** Heard finally with the consent of the learned
counsel appearing for the parties.

(2) The challenge is raised to the order dated 27/08/2024 passed by respondent No.1, Scheduled Tribe Certificate Verification Committee, Amravati Division, Amravati (for short '**the Committee**'), thereby invalidating the claim of the petitioner that he belongs to the "**Bhil**" Scheduled Tribe.

(3) The petitioner claims that he belongs to the "**Bhil**" Scheduled Tribe. By an appointment order dated 07/09/2019, he was appointed to the post of 'Shikshan Sevak' in the Scheduled Tribe category. On 04/03/2020, Sub-Divisional Officer, Buldhana issued a Tribe Certificate in his favour. The petitioner, through his employer, submitted his proposal for verification of the Tribe's claim to the Committee on 17/03/2020. Then, the respondent No.2 directed the petitioner to submit a Validity Certificate within a period of three days. Therefore, the petitioner approached this Court by filing a Writ Petition No.2462/2020. Vide order dated 22/09/2022, this Court had directed the respondent No.1 Committee to decide the Tribe's claim of the petitioner within six months. The petitioner challenged the order of this Court before the Hon'ble Apex Court in S.L.P. (Civil) Diary No.38946/2022, which was dismissed.

(4) The respondent No.1 Committee was dissatisfied with the document submitted by the petitioner; therefore, it forwarded the

same to the Vigilance Cell for a detailed enquiry. The Vigilance Cell thoroughly inquired into the matter and submitted its report to the Committee, observing that adverse entries of "Musalman/Muslim" were found during the enquiry. Also, there is a discrepancy in the entries recorded for the 1927 and 1943 documents. The Committee issued a show cause notice and called upon the petitioner to explain the adverse entries discovered against his claim.

(5) In response, he submitted a reply and denied the adverse entries. After affording an opportunity of hearing to the petitioner, considering the Vigilance Cell report and documents on record, the Committee vide impugned order dated 27/08/2024 rejected the Tribe's claim of the petitioner. Hence, this petition.

(6) Learned counsel Mr. Karode, appearing for the petitioner, vehemently contended that the petitioner had submitted six pre-Constitutional era documents from 1924 to 1945, pertaining to his father and grandfather, wherein their caste had been recorded as "*Bhil*". However, the Committee failed to consider those six documents and rejected the Tribe's claim of the petitioner. During the arguments, learned counsel drew our attention to those entries and submitted that the Committee erred in discarding those entries and relied upon the adverse entries found during enquiry, wherein their caste had been

recorded as "*Musalman/Muslim*", which is not a caste, but a religion, therefore, findings recorded by the Committee are perverse and contrary to the settled position of law.

(7) He further argued that the notice issued by the Committee on 29/07/2024, was not in the Form No.25 and thereby, violated the procedure prescribed in Rule 17 of the Maharashtra Scheduled Castes, De-notified Tribes (*Vimukta Jatis*), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Rules, 2012 (For short, the Rules of 2012). In order to substantiate his contention, he has relied upon decisions of the Hon'ble Supreme Court and this Court, as under:-

1. *Mr. Rajendra S/o Premrao Hedau vs. The State of Maharashtra* [Writ Petition No.788/2021 decided on 09/02/2021]
2. *Sayanna vs. State of Maharashtra and others* (2009) 10 SCC 268.
3. *Priya Pramod Gajbe vs. The State of Maharashtra and others* 2023 LiveLaw(SC) 591
4. *Ibrahim Khan s/o Mohd. Khan vs. The State of Maharashtra and others* [Writ Petition No.1260/2009 decided on 10/08/2017]
5. *Habib Ali Shah S/o Anwar Ali Shah vs. The State of Maharashtra and others* [Writ Petition No.2427/2012 decided on 15/10/2018]
6. *Ku.Gangubai D/o Prabhakar Naitam vs. District Caste Certificate Scrutiny Committee and others* [Writ Petition No.8381/2023 decided on 23/09/2024]

Therefore, submitted that in view of the law laid down in the aforesaid judgments, the petitioner's case is covered and he is entitled to get a Validity Certificate that he belongs to "Bhil" Scheduled Tribe. Hence, he urged the petition to be allowed.

(8) *Per contra*, learned Assistant Government Pleader vehemently resisted the petition, contending that the respondent No.1 Committee rejected the earlier claim of the petitioner vide order dated 17/09/2016; therefore, the petitioner is not entitled to the relief as claimed.

(9) She further argued that in para 7 of the reply, the chart about what was discovered by the Vigilance Cell during the Vigilance Cell enquiry is quoted and she has relied upon it, which reads as under :-

"7. It is humbly submitted that, in the Vigilance Enquiry, the following facts were disclosed.

Sr. No.	Document	Findings
1.	06.1924	<i>The Tahsil office, Buldhana, submitted a communication stating that the concerned record was in 'jirn' (dilapidated) condition and therefore, the said document could not be verified.</i>
2.	07.03.1927	<i>There was a difference in ink while recording the entry, and the same was written subsequently.</i>
3.	08.1935	<i>The Tahsil office, Buldhana, submitted a communication stating that the concerned record was in 'jirn' (dilapidated) condition and therefore, the said document could not</i>

Sr. No.	Document	Findings
		<i>be verified.</i>
4.	05.12.1936	
5.	22.09.1943	<i>The birth registration record book was in a messy (astavyast) condition.</i>
6.	07.08.1945	<i>The Tahsil office, Buldhana, has conveyed that the concerned record was in 'jirn' (dilapidated) condition and therefore, said document could not be verified."</i>

(10) She has also produced an original record of all those entries before the Court to substantiate her contention. Thus, she submitted that the petitioner failed to discharge the burden cast upon him to demonstrate that he belongs to the "Bhil" Scheduled Tribe. Hence, she urged the dismissal of the petition.

(11) We have appreciated the rival submissions of the parties and perused the impugned order and record. It is pertinent to note that to determine the controversy regarding the documents produced by the petitioner, we have called the original record of the Tahsil Office and the Birth and Death Registration Register. We have minutely gone through the original record of the Committee, as well as the record of the Revenue Authorities and Birth and Death Registration Register, and verified the record to ascertain the genuineness of the entries of 06/1924, 07/03/1927, 08/1935, 05/12/1936, 22/09/1943, and 07/08/1945 and returned original record to them.

(12) During the inspection, we noticed that the entry for June 1924 was not available in the record, as the said record was ***in a jirn/dilapidated condition***. Therefore, we could not verify the entry from the original record. The petitioner failed to explain 'from where he obtained the entries' when they were not available in the original record.

(13) The concerned Authority has also produced the issuance of the copying register 2013 before the Court and shown the entry bearing application No.1068 to us. On perusal of the same, it appears that the application for issuance of a copy was initially recorded in the name of one Shri Datta Shankar, his name was struck down, and the name of the applicant, Mohd. Naim was inserted there. No name of the petitioner appeared as an applicant in the said document. The petitioner failed to explain the said fact, which creates a doubt about the issuance of the certified copy to the petitioner by application No.1068, on which the petitioner is relying.

(14) We have inspected and verified the entry dated 07/03/1927 from the original Birth and Death Registration Register of Deulghat. We found that the entry of the caste "*Bhil*" is on page No.103 of the register, and the said entry was in a different ink and handwriting and appears to be at the bottom of the page. The said

entry clearly reflects that it was subsequently inserted using a different ink. The petitioner failed to explain the said discrepancy.

(15) On inspection and verification of the record of 1935, the entry 08/1935 was not available in the said record. We found the said record to be in a scattered and dilapidated condition; therefore, we could not verify the said entry. The petitioner failed to explain 'from where he got the said entry' when the said entry is not available in the original record.

(16) To ascertain the entry dated 22/09/1943, we inspected and verified it from the Birth and Death Registration Register of the village of Jamthi. However, the said register was found to be in a dilapidated and scattered condition. The entry in the name of Abbas Adamkhan Bhil was found in different ink and handwriting, and appears to be at the top of the page in the said register. The said entry clearly reflects that it was subsequently inserted using a different ink, which can be verified as per section 72 of the BSA Act (sec.73 of the Indian Evidence Act). The petitioner failed to explain the said controversy.

(17) Similarly, we have also seen the Birth and Death Registration Register of Malkapur; it seems that the entries from October 1945 onwards are only available in the register, and prior to

that, no record is available. So, we do not find the entry dated 07/08/1945 in the original Birth and Death Registration Register. However, the petitioner failed to explain 'from where he obtained the certified copy of the said entry'.

(18) Thus, it appears from the original records that copies of the extract of the documents produced by the petitioner were not available in the original record or the entry "Bhil" was inserted subsequently in the documents by a different ink by interpolation. The learned counsel for the petitioner failed to explain the said controversy to our satisfaction during his arguments. It seems that the petitioner had not come to the Committee with clean hands and produced documents that were not available in the record, or some documents were produced by manipulating the original record.

(19) Thus, we noticed that the petitioner produced documents that were not available in the original record. Also, in some of the documents he produced, we find that the entry in the said document is in a different ink and handwriting, which creates doubt about the insertion of the said entry in the original record later on.

(20) On the contrary, the documents produced by the petitioner from 1990 to 2008 of himself wherein his caste/community

had been recorded as "Musalman/Muslim" and no entry of "*Bhil*" is found in his School/College Leaving Certificate or the school record. Had it been the fact that if his ancestors' caste was "*Bhil*", then why in the School Leaving Certificate and another School record, his caste was not recorded as "*Bhil*". The burden was cast on him to discharge the same, but he failed to discharge it.

(21) On careful scrutiny of the original record and the documents produced by the petitioner, it is evident that the documents produced by the petitioner were found to be interpolated, fabricated and suspicious. Which itself indicates that the petitioner had not come to the Committee with clean hands, but produced the documents before the Committee which are not available or some documents were produced by manipulating the original record in the name of his grandfather, which clearly appears from the entries; therefore, in such an eventuality the petitioner is not entitled for the relief as claimed. It is a settled principle of the law that the person who comes to the Court to seek a remedy must come to the Court with clean hands. Thus, fraud on the part of the person deprives him of his rights to claim equitable relief. Another settled canon of administration of justice is that no one should be permitted to misuse the judicial process by filing fraudulent documents before the Court or authorities.

(22) In **Rajendra Hedau** (supra), the Committee had recorded a finding that the document of 1909 was found to be fabricated and forged. Therefore, this Court had observed that *"the approach of the Committee was erroneous, as the Committee had not considered the said document in its totality and remanded the matter back to the Committee."*

(23) In **Sayanna** (supra), the Scrutiny Committee observed that *"the word 'lu' was interpolated in the School Register. Therefore, this Court has observed that it was necessary for the Officer to show whether the petitioner had access to the school to tamper with the said entry."*

(24) In the case of **Priya Gajbe** (supra), the Hon'ble Apex Court observed that *"no caste 'Mani' exists and therefore, the word 'Mani' could be recorded by mistake in writing."*

(25) In **Ibrahim Khan** (supra) and **Habib Ali Shah** (supra), it was observed that *"Musalman/Muslim/Momedian"* is a religion and not a caste. Therefore, it was held that the Scrutiny Committee erred in recording the said entries regarding the caste and remanded the matter for reconsideration afresh.

(26) In **Gangubai** (supra), the petitioner obtained a certified copy of his birth certificate and produced it before the Committee. However, the Committee discarded the same on the ground that the record was in dilapidated condition and could not be produced before the Committee. However, the said entry was verified by the Vigilance Cell. Therefore, the Court observed that "*the findings and the reasons to discard the entry about the document recorded by the Committee were erroneous.*"

(27) In the case in hand, we have already observed that we have personally inspected and verified the available original record, as discussed above, we found that the original record is not available in respect of documents 06/1924, 08/1935 and 07/08/1945. The entire entry was in different ink and different handwriting at the bottom or top of the said record, and the petitioner struck the original name of the applicant and inserted his name there, and the petitioner failed to explain all these aspects. Therefore, in view of the discrepancy above, we are of the view that the petitioner had not come to the Committee or before this Court with clean hands, but produced the copies which were not available in the original record and some copies of documents by manipulating the original record. Moreover, the petitioner failed to

explain the entries in the documents of himself of 1990 to 2008, wherein the column of the caste "Musalman" has been recorded though assuming that "Musalman/Muslim/Momedian" is not a caste, but same is the religion, however, in the column of the caste, his caste is not recorded as "**Bhil**". Had it been the case that his ancestors' caste was recorded as "**Bhil**", the same caste would be reflected in his documents, but not reflecting the same leads to drawing adverse inference against his claim, but he failed to explain said discrepancy. Therefore, in our view, the facts in the case at hand and the facts in the above-cited judgments are distinct, and therefore, the observations made in the said judgments are hardly of any assistance in the case at hand.

(28) As such, from the available documentary evidence and scrutiny of the original record, it cannot be said that the petitioner has discharged the burden as contemplated under Section 8 of the Act of 2000, thereby proving that he belongs to the "**Bhil**" Scheduled Tribe. Moreover, the petitioner had not come before the Committee or the Court with clean hands. Thus, in our view, he is not entitled to claim the relief based on such forged and fabricated documents.

(29) In this background, in our view, the petitioner cannot be said to belong to "**Bhil**" Scheduled Tribe; rather, the Committee is justified in stating that the petitioner has failed to demonstrate that he

belongs to “*Bhil*” Scheduled Tribe. Consequently, we do not find substance in the contention of the petitioner, and the petition is bereft of merit and stands dismissed.

(30) Rule is discharged. No order as to costs.

[ABHAY J. MANTRI, J.]

[AVINASH G. GHAROTE, J.]

KOLHE