



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

WRIT PETITION NO.7344 OF 2022

Ku. Purva d/o Raju Burde, aged about 25 years, Service as a Private Job, r/o 901, Dinkar Apartment, Tikekar Marg, Dhantoli, Nagpur – 440 012.

... PETITIONER

VERSUS

1. State of Maharashtra, through its Secretary, Tribal Welfare and Social Justice Department, Mantralaya, Mumbai -400 032.
2. Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati Division, Amravati, through its Deputy Director/Member Secretary

... RESPONDENTS

Shri N.C. Phadnis, Advocate for the petitioner.
Shri A.S. Fulzele, Addl.G.P for the respondent/State.

CORAM : SMT. M.S. JAWALKAR AND PRAVIN S. PATIL, JJ.
CLOSED ON : 02.09.2025.
PRONOUNCED ON : 18.09.2025.

JUDGMENT : (Per : Pravin S. Patil, J.)

Heard. **RULE.** Rule is made returnable forthwith.

2. The matter is taken up for final disposal by consent of the

parties.

3. The petitioner by way of present petition questioned the order passed by respondent no.2 Caste Scrutiny Committee, Amravati dated 12.09.2022 by which the claim of the petitioner belonging to Halba Scheduled Tribe is rejected.

4. It is the contention of the petitioner that the petitioner claims that she belongs to Halbi Scheduled Tribe as per the entry no.19 as per the Scheduled Tribes Order, 1950. The petitioner is completed her 11th standard examination and her caste claim was forwarded through the College in the month of October 2012, which was received by the Scrutiny Committee on 30.10.2012.

5. In support of submission, the petitioner has submitted in all 17 documents with her application. Out of the said 17 documents, she has heavily relied upon the pre-Constitutional era documents of her great great grandfather namely Babusa Sonba Burade dated 02.07.1911, document of grandfather namely Pundlik Babuji Burade dated 01.04.1939, revenue entries of great grandfather dated 25.02.1977 and 27.11.1913. She has also relied upon the school record of grandfather of dated 29.11.1932. As such, on the basis of this documents, she was claiming to be belonging to the caste of Halbi

Scheduled Tribe.

6. It is stated that after submitting the caste claim, her documents were forwarded to the vigilance cell. Accordingly, the vigilance cell forwarded its report on 07.02.2015. But the Committee not satisfied with the report and therefore, directed to conduct the re-enquiry in the matter. The re-enquiry report of the vigilance cell was received to the Committee on 28.02.2017. On receipt of the same, notice dated 01.07.2018 was issued to the petitioner to tender explanation on the said report. The petitioner on 10.08.2018 tendered her explanation to the police vigilance cell stating that some irrelevant entries were obtained by the vigilance cell, who are not the relatives of the petitioner in any manner.

7. The petitioner has stated that she has placed on record her caste validity certificates of her father namely Raju Burade decided by this Court vide judgment dated 06.08.2003 and her real uncle dated 23.04.2009 by the same Committee. All these documents are placed on record, which are in the nature of conclusive proof that the petitioner belongs to Halbi Scheduled Tribe. Hence, in view of her blood relatives has been granted caste validity certificate, the same should be relied upon and tribe/caste validity certificate to be issued to her. It is stated

that without considering the explanation and the documents relied upon by her, by impugned order dated 12.09.2022 her caste claim is invalidated. Therefore the petitioner is approached before this Court.

8. The petitioner further raised grievance that as per the mandate of Rule 12(2) of the Maharashtra Scheduled Tribes (Regulation of Verification and Issuance of) Certificate Rules, 2003, the Committee is only expected to forward the tribe claim to the vigilance cell only in the case, if the Committee is not satisfied with the documentary evidence.

9. On merits, the petitioner stated that she has placed on record before the respondent Committee the entries of old documents as well as the caste validity certificate of her father, uncle and other blood relatives, and therefore, considering this aspect of the matter, requested respondent Committee to grant him the caste validity certificate.

10. It is stated that the respondent Committee without considering this material aspect, invalidated the tribe claim of the petitioner. Hence, the petitioner constrains to approach before this Court by way of present petition.

11. Respondent Scrutiny Committee has opposes the petition stating that from the documents procured by the vigilance cell, it is clear that forefather of the petitioner belonging to the caste of Koshti and not Halbi. Therefore, the decision taken by the Committee is in consonance with the procedure adopted as per the law, in the matter and hence there is no need of indulgence in the matter. The entry on which Committee has relied upon clearly shows that his ancestors were belonging to caste of Koshti. Hence on the basis of this submission, the respondent Committee stated that there is no fault in the order, and therefore, present petition deserves to be dismissed.

12. We have heard both the learned Counsel at some length. Perused the original record produced by the respondent Committee.

13. The petitioner has relied upon the judgment of this Court in the case of *Apoorva Nichale v. Divisional Caste Certificate Scrutiny Committee and other* 2010(6) *Mh.L.J.* 401, particularly in paragraphs 4 and 7, which read thus :

“4. We have considered the matter and we are of the view that the petitioner's caste claim that she belongs to Kanjar Bhat- Nomadic Tribe ought to have been accepted by the Committee merely on the basis that identical caste claim of her sister that she belongs to Kanjar Bhat has been allowed by the Committee, even apart from the Government Resolution. We are of the opinion that the guidelines provided by the said Govt. Resolution are sound and based

on sound principles. It would indeed be chaotic otherwise. If the relationship by blood is established or not doubted, and one such relative has been confirmed as belonging to a particular caste, there is no reason why public time or money should be spent in the committee testing the same evidence and making the same conclusion unless of course the Committee finds on the evidence that the validity of the certificate of such relation has been obtained by fraud.

...

7. We thus come to the conclusion that when during the course of enquiry the candidate submits a caste validity certificate granted earlier certifying that a blood relation of the candidate belongs to the same caste as that claimed by the applicant, the committee may grant such certificate without calling for Vigilance Cell Report. However, if the committee finds that the earlier caste certificate is tainted by fraud or is granted without jurisdiction, the Committee may refuse to follow and may refuse to grant certificate to the applicant before it."

14. *Judgement of the Hon'ble Supreme Court in the case of Anand v. Committee for Scrutiny and Verification of Tribe Claims and ors. (2012) 1 SCC 113, particularly at paragraphs 18 and 19 , which read thus :*

"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. ”

15. The petitioner to prove her genuineness of caste claim has further relied upon the judgment in the case of ***Priya s/o Pravin Parate vs. Scheduled Tribes Caste Certificates Scrutiny Committee, Nagpur and ors. 2013(1) Mh.L.J. 180 :***

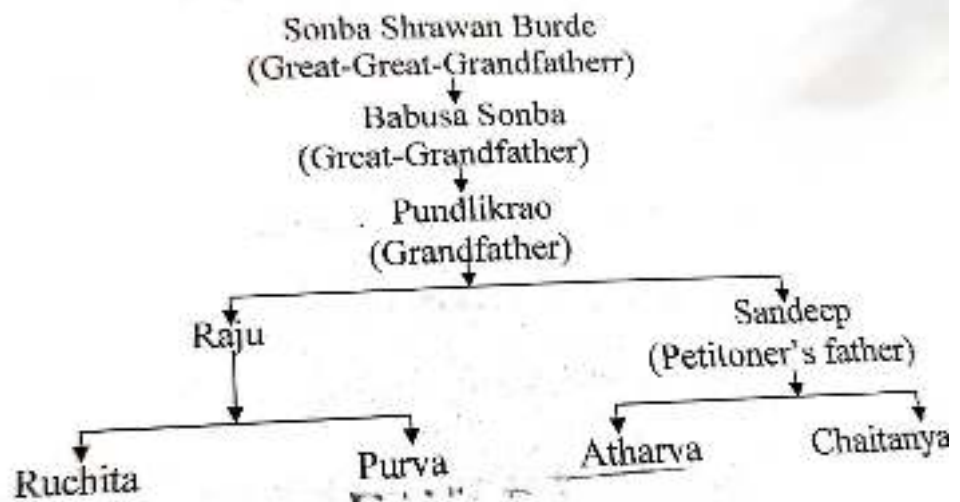
“6. Perusal of the aforesaid judgment would clearly reveal that while dealing with the documentary evidence, a greater reliance has to be placed on pre-independence documents, because they furnish higher degree of probative value to the declaration of status of a tribe.

7. While considering the affinity test, it has been held by the Hon’ble Apex Court that it has also to be considered that the present traits of a claimant may not match his tribe, particularly anthropological and ethnological traits, deity, rituals, customs, mode of marriage, death ceremonies, method of burial of dead bodies etc., on account of migrations, modernization and contact with other communities.

13. it is nobody’s case that the aforesaid documents are either fraudulent or fabricated one. In the report of the vigilance cell Committee, veracity and genuineness of these documents have not been doubted. In that view of the matter, in view of the documents of pre-Constitution era, which according to the judgment of the Hon’ble Apex Court have a greater probative value, the claim of petitioners could not have been rejected.”

16. From the above legal position, it is clear that the Caste Scrutiny Committee is not required to look into the documents if the candidate has established on record that if blood relatives has been granted caste validity as per the case of *Apoorva Nichale (supra)* then candidate is entitle for caste validity without further investigation.

17. In the present petition, the family tree, which is undisputed in the matter, as under :



18. The relationship of the petitioner with her ancestors are not disputed in the matter. The petitioner has rightly relied upon the caste validity certificate of her father Raju and uncle whereby the caste Scrutiny Committee held that the petitioner's father and real uncle belongs to Halbi Scheduled Tribe.

19. In respect of the father of the petitioner namely Raju Pundlikrao Burade, it will be necessary to point out that he has been granted caste validity by then Appellate authority i.e. the Commissioner, Nagpur Division, Nagpur. However, his employer did not consider the said order as a valid to hold that she belongs to Halbi Scheduled Tribe. Therefore, her father filed Writ Petition No.2585 of 2003 before this Court wherein this Court by its judgment dated 06.08.2003 held that the employer of the father of the petitioner should consider the order of Appellate Authority as good and valid one and act on the same. As such, the father of the petitioner namely Raju Burade held to be in possession the caste validity since the year 1982.

20. The petitioner has also relied upon the caste validity of sister namely Ruchita Raju Burade which was granted in her favour on the strength of the order passed by this Court in Writ Petition No.2585 of 2003.

21. In the above said factual position, we are of the opinion that if the father, real uncle and sister have been granted caste validity certificate, in that case respondent Committee ought to have follow the principles laid down by this Court in the case of *Apoorva Nichale (supra)*. Since there is no explanation as to why the law laid down by

this Court cannot be adhered in the matter, we hold that impugned order is bad in law.

22. The Committee has relied upon the entry which was collected by the vigilance cell of the period of 18.06.1910, 24.01.1917, 04.10.1969, 01.10.1958, 10.07.1960 and on the basis of these held that petitioner failed to prove her tribe claim in the matter. Bare perusal of these entries on which the Committee has relied upon, clearly demonstrates that the said entries are from maternal side and not from the paternal side as required under the provisions of law. Therefore, we are of the confirmed opinion that same cannot be relied upon in the matter, because under Rules, the entries from paternal side are required to be held as valid.

23. In the present petition, the petitioner has specifically relied upon the old entries dated 01.04.1939 i.e. school leaving certificate of grandfather namely Pundlik Babuji Burade, the school admission extract of great grandfather namely Babusa Sonba dated 02.07.1911. According to the genealogical tree which is reproduced as above, clearly establishes their relation with the petitioner and record shows that their caste is recorded as Halbi. Therefore, there was no reason for the Caste Scrutiny Committee to discard these old entries in the matter.

According to settled principles of law, pre-independence documents is having higher probative value and same needs to give weightage at the time of deciding caste/tribe claim.

24. As per the judgment in the case of Anand (*supra*), the Hon'ble Supreme Court has specifically observed that the caste scrutiny committee can only scrutinise the document 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. Hence, applying this principle laid down by the Hon'ble Supreme Court, we find that once the petitioner has produced the old documents, same was required to be verified instead of collecting other document in the matter. Hence on this count also, we are of the opinion that the Committee has failed to apply its mind in the matter.

25. In the case of *Priya Parate (supra)*, the Hon'ble Supreme Court has specifically held that while dealing with the documentary evidence, a greater reliance has to be placed on pre-independence document because they furnish higher degree of probative value to the declaration of status of a tribe. Hence considering the law laid down by the Hon'ble Supreme Court, the Committee ought to have relied upon

the undisputed document produced by the candidate and verified by the vigilance cell. However, the basic principle which is time and again reiterated by the Hon'ble Supreme Court, not followed in the matter.

26. For the above said reasons, we are of the considered opinion that the Committee has failed to discharge its duty in legal and proper manner and thereby wrongly invalidated the tribe claim of the petitioner. Hence we proceed to pass the following order :

- (a) The Writ Petition is allowed.
- (b) The order dated 12.09.2022 passed by the respondent Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati is hereby quashed and set aside.
- (c) It is declared that the petitioner belongs to the 'Halbi' Scheduled Tribe category, which is covered by entry no.19 of the Constitutional Scheduled Tribe Order, 1950.
- (d) The respondent the Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati is directed to issue the caste validity certificate to the petitioner within a period of three weeks from the date of this order.

27. Rule is made absolute in aforesaid terms. No order as to costs.

(PRAVIN S. PATIL, J.)

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

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