



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

WRIT PETITION NO. 7419 OF 2024

PETITIONER :

Javedkha s/o Musakha Pathan
Aged about 34 years,
Occupation : Service as Kotwal,
R/o. Dodra, Post Isrul, Tah. Deulgaon
Raja, District – Buldhana.

V E R S U S

- RESPONDENTS :**
1. The Scheduled Tribe Caste Certificate Scrutiny Committee, Chaprasipura, Amravati, District – Amravati, Through its Research Officer / Member Secretary.
 2. The Sub Divisional Officer, Sindkhed Raja, Tah. Sindkhed Raja, District – Buldhana.
 3. The Tahsildar, Deulgaon Raja, Tah. Deulgaon Raja, District – Buldhana.

Shri R. D. Karode, Advocate for petitioner.

Mrs. D. V. Sapkal, Assistant Government Pleader for respondent Nos.1 to 3.

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

JUDGMENT RESERVED ON : 07/08/2025

JUDGMENT PRONOUNCED ON : 13/08/2025

JUDGMENT : (PER : PRAVIN S. PATIL, J.)

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

2. In the present petition, the petitioner has impugned the order dated 31/10/2024 passed by the respondent No.1 – Committee, whereby the caste claim of the petitioner belonging to “Bhil” Tribe, which is recognized as “Scheduled Tribe” is invalidated.

3. In short, the facts of the petition, can be stated as under:-

The petitioner claims to be of “Muslim” religion and belongs to Caste “Bhil”, which is recognized as “Scheduled Tribe” at Sr.No.8. The petitioner accordingly by representing himself of Scheduled Tribe on 15/05/2015 came to be appointed against the post of Kotwal reserved for Scheduled Tribe Category. After his appointment on 01/09/2022, his caste claim was forwarded to the respondent No.1 – Committee.

4. The petitioner in support of his caste claim tendered pre-independence era documents of the years 1934, 1938 and 1955 of his relatives from paternal side to demonstrate that he belongs to caste “Bhil”.

5. The respondent No.1 – Committee after receipt of proposal of petitioner, forwarded the said documents for

verification to the Vigilance Enquiry Officer. Accordingly, the Vigilance Cell after conducting enquiry submitted its report on 01/08/2024 to the Caste Scrutiny Committee.

6. Vigilance Cell in its report stated that the document dated 21/04/1938 relied upon by the petitioner of his Great Grand-father namely; Husainkha Motikha was found to be recorded as “Musalman” in one ink and the word “Bhil” is written in another ink. Hence, said document cannot be relied upon. The document of the year 1934 of Husainkha Motikha showing the entries in respect of birth of one son Sarfarazkhan of year 1955 and the birth of one son Musakhan to Sarfarazkhan Husaikha found to be in a dilapidated condition as per the communication received from Tahsil Office, Buldhana. As such, record was not made available for verification. Hence, they cannot comment on the entries of year 1934 and 1955.

7. The respondent No.1 – Committee after receipt of report of Vigilance Cell on 07/08/2024 issued notice to the petitioner and asked to tender explanation on the report of Vigilance Cell.

8. The petitioner on 26/08/2024 tendered his explanation to the respondent No.1 – Committee and stated that along with his

application, he has already submitted copies of Kotwal Book Entry, which is of 1934 of his great-great-grand-father namely; Husainkha Motikha and of year 1955 of Sarfarazkhan Husainkhan. Hence, said documents being already produced on record, the remark of the Vigilance Cell is incorrect. Hence, the report in that regard should not be relied upon by Respondent No.1 – Committee.

9. In respect of document dated 21/04/1938 of using different ink to record the caste “Bhil”, it is stated that according to the petitioner, he found no difference of the ink in the said document and if the committee has any doubt about interpolation, the matter can be referred to the expert and by relying upon the opinion of expert, committee can take appropriate decision in the matter.

10. In the background of abovesaid factual position, the respondent No.1 – Committee proceeded to decide the caste claim of the petitioner and by impugned order dated 31/10/2024, invalidated the caste claim of petitioner. The same is under challenge by present petition.

11. The respondent No.1 – Committee in response to the notices issued by this Court, appeared in the matter and strongly

objected the petition. It is the submission of respondent No.1 that as per the law laid down by Hon'ble Supreme Court of India in the case of State of Maharashtra Vrs. Milind Katware and others, reported in 2001 (1) Mh.L.J. 1, the Presidential Order should be read as it is. Nobody has right to insert a single comma or to change a single word in it. Hence, considering the law laid down by the Hon'ble Supreme Court of India, the entries which are recorded in the name of blood relatives of the petitioner as "Musalman" were considered as it is. It is further stated that the entries of pre-independence era documents relied upon by the petitioner found to be in torn condition and due to the said reason, the Committee was not in a position to consider those documents while deciding the Tribe claim. In respect of Caste Validity Certificate relied by the petitioner in the name of Javeed Khan Aalam Khan Tadavi, it is stated that the Vigilance Cell during the course of their enquiry could not find his name in the genealogical tree prepared by the Vigilance Cell. Hence, the Caste Validity Certificate of cousin brother of petitioner was not relied by the Committee while deciding the caste claim of the petitioner. Accordingly, it is prayed that the petition being devoid of merit, same is liable to be dismissed.

12. In the present petition, we have perused the original record produced by the respondent No.1 – Committee. Perusal of the said record shows that the petitioner has produced the certified copies of Kotwal Book showing the entry in the name of great-grand-father Sarfarazkha Husainkha of the year 1955 and entry of the year 1934 in the name of Husainkha Motikha. The said certified copy seems to have been obtained from Tahsil Office, Buldhana in the year 2017. As such, it is surprising how the Vigilance Cell recorded the finding that the concerned officer has denied them to provide same documents for verification vide letter dated 17/08/2023 by stating that documents being torn and in a dilapidated condition. Furthermore, it is expected from learned committee members to record finding as to why the certified copies supplied by petitioner in such circumstances cannot be relied upon. But neither any findings are recorded nor exercised their powers to make enquiries as to how the same authority at one hand issued certified copies to petitioner and refused the access of record to Vigilance Officer. As such, there is total non-application of mind while considering the pre-independence era documents.

13. In respect of old entry in the name of Husainkha Motikha dated 21/04/1938, the petitioner in his reply after receipt

of Vigilance Cell Report specifically stated that if the Committee is of the opinion that there is interpolation as the caste “Bhil” as it is alleged to be found in different ink, the matter should be referred to the Handwriting Expert and get opinion from the said person. But, it seems that though specific explanation was tendered by petitioner, no reasons are recorded while dealing with document dated 21/04/1938. What we find that Respondent No.1 – Committee instead of applying its mind simply accepted the reasons recorded by the Vigilance Cell. Hence, it can be said that there is no independent application of mind while considering the old entries produced by the petitioner in the matter.

14. In the present petition from the record, it is seen that the Vigilance Cell has prepared genealogical tree of the family of the petitioner. According to the said tree, it is admitted fact that Husainkha is the great-grand-father, Sarfarazkhan is the grand-father and Musakhan is the father of petitioner namely; Javedkha s/o Musakha Pathan. Hence, there is no dispute in respect of family tree, which is submitted by the petitioner along with his application and the family tree prepared by the Vigilance Cell. Therefore, pre-independence era documents of great-grand-father, grand-father and father are the important documents and the verification of the same was required to be done by the respondent

No.1 – Committee before deciding the caste claim by availing all the powers which are given to them under the Statute. However, it seems that the respondent No.1 – Committee failed to exercise its powers to verify the documents produced by the petitioner in right perspective.

15. The petitioner in support of his submission has relied upon by the Judgment delivered by this Court in Writ Petition No.788/2021, wherein this Court in Para Nos. 14 and 16 observed as under :-

“14. Now, moving to the entry of 1933, it is stated that the police vigilance cell could not find a copy of application on the record of the school, seeking ‘Transfer Certificate’. The other reason for discarding the said entry was that the complete entry was not found, because the record is very old and a small corner part of the page having entry ‘Hedau’ relating to grand father of the petitioner, has been pulled apart or torn.

16. In the case of Anand Vs. Committee for Scrutiny and Verification of Tribe Claim, The Hon’ble Apex Court has specifically ruled that greater reliance may be placed on pre-independence documents because they furnish high degree of probative value. It is further observed that the affinity test is merely to be used to collaborate documentary evidence and it is not to be used as sole criteria for rejection of claim.”

According to this Judgment, if the Committee discarded the pre-independence era documents on the count that record is very old and in a dilapidated condition and therefore could not verify the same, cannot be accepted as a valid reason. Accordingly, on the ground that the Committee failed to assess the

documentary evidence by omitting to consider the important piece of evidence, remanded back the matter for fresh consideration.

16. This Court further in Writ Petition No.8381/2023 (Ku.Gangubai D/o Prabhakar Naitam Vrs. District Caste Certificate Scrutiny Committee and others) decided on 23/09/2024 observed in Para No.11 as under :-

“11. The document pertaining to year 01/07/1954, in respect of applicant's father's birth certificate clearly goes to show that on 01/07/1954, a son was born to Nilu Tirumal by name Prabhakar. This document is the certified copy obtained by the applicant from the original. However, this document is discarded by the Caste Scrutiny Community on the ground that when letter sent to Block Development Officer for bringing the original record, the block Development Officer informed through letter that record of Nilu Tirumal is in dilapidated condition, therefore, cannot be produced before the Committee. If earlier vigilance report dated 17/01/2004 is perused, it is clearly supporting the applicant. It appears that entries of birth certificate of father of the petitioner were also duly verified by the Vigilance Cell and were reported as true and correct.”

Accordingly, it is made clear that the certified copies obtained by the applicant from the original and furnished before the Committee, same needs to be considered while deciding the caste claim of the petitioner. However, in this case though the petitioner has furnished the certified copies of the pre-independence era documents obtained from the Tahsil Office, Buldhana, the same are not relied upon by the committee.

17. In respect of allegation of interpolation, petitioner has relied upon the Judgment of the Hon'ble Supreme Court of India,

in the case of Sayanna Vs. State of Maharashtra and others, reported in (2009) 10 SCC 268, wherein the Hon'ble Supreme Court in Para No.14 observed as under :-

“14. It is difficult for this Court to understand as to on which basis the Scrutiny Committee came to the conclusion that the word “lu” was interpolated in the register of the school more particularly when it was not so opined by the Police Inspector who had conducted the enquiry. Whether interpolation by addition has taken place can be stated by a handwriting expert or by comparison of admitted letters of a person with this disputed one. It is an admitted position that the Scrutiny Committee had never attempted to get an expert's opinion nor itself had compared the disputed letters with admitted one of the appellant.”

As such, the Hon'ble Supreme Court held that while considering the genuineness of caste certificate where it is alleged of interpolation of documents, the expert opinion can always be obtained to clarify the said doubt. Admittedly in the present matter, petitioner while tendering his reply on the Vigilance Cell Report specifically stated that if the Committee is of the opinion that there is different ink used to record the caste as “Bhil”, the matter can be referred to the expert opinion. However, said recourse was not followed by the Committee and only on the basis of Vigilance Cell Report, discarded the pre-independence era document dated 21/04/1938.

18. In the facts and circumstances of the case, it is clear that the respondent No.1 – Committee failed to exercise its powers

in proper perspective and wrongly discarded pre-independence documents which are relied upon by the petitioner and having high degree of probative value.

19. Hence, for the aforesaid factual as well as legal position, we are of the considered opinion that the pre-independence era document needs reconsideration at the hands of respondent No.1 – Committee and therefore, the matter is required to be remanded back to the respondent No.1 – Committee for fresh consideration. Hence, we pass the following order :-

ORDER

- i] The writ petition is partly allowed.
- ii] The order dated 31/10/2024 passed by the respondent No.1 – The Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati is hereby quashed and set aside.
- iii] The respondent No.1 - The Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati is directed to re-consider the pre-independence documents relied by the petitioner, particularly of the years 1934, 1938 and 1955 and decide the caste claim afresh within a period of three months from the date of order produced before him by the petitioner.

iv] In the meantime, the interim order dated 12/03/2025 protecting the services of the petitioner shall continue, till the decision of the Caste Scrutiny Committee.

v] Rule is made absolute in above terms with no order as to costs.

[PRAVIN S. PATIL, J.]

[SMT. M. S. JAWALKAR, J.]

Choulwar