

(2025) 06 BOM CK 0105
In the Bombay High Court
Case No : Writ Petition No. 13548 Of 2024

Ashish Balaji Sawant

APPELLANT

Vs

Jalindar Tukaram Khaire

RESPONDENT

Date of Decision : 20-06-2025

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2025) 06 BOM CK 0105

Hon'ble Judges : A. S. Gadkari, J;Kamal Khata, J

Bench : Division Bench

Advocate : C. G. Gavnekar, Rohit Parab, Prashant Raut, Ramesh Dube Patil, Swaraj Patil, Iraa Dube Patil, Ankit Patil, Jay & Co. M. P. Thakur

Final Decision : Dismissed

Judgement

Kamal Khata, J

1) Rule. Rule made returnable forthwith and the Petition is heard finally with the consent of all learned Advocates for the respective parties.

2) By this Petition under Article 226 of the Constitution of India, the Petitioner seeks quashing and setting aside the Order dated 14th May, 2024, passed by the Respondent No.4-District Caste Scrutiny Committee, Raigad.

3) Mr. Gavnekar, learned Advocate for the Petitioner states that the Petitioner had contested the election for the post of Sarpanch and successfully defeated the Respondent No.1. Aggrieved by the election result, the Respondent No.1 lodged a complaint with the District Caste Scrutiny Committee. He submits that, without affording an opportunity of hearing to the Petitioner, Respondent No.4 passed an Order on 14th May 2024 ("impugned order") invalidating the caste claim of the Petitioner.

3.1) Mr. Gavnekar, submits that Respondent No.5 failed to consider the old records which clearly indicate that, the Petitioner's grandfather belonged to the

Kunbi caste. He asserts that, the documentary evidence supporting Petitioner's caste certificate was not properly appreciated. He further contends that, the Respondent No.5 has misconstrued the ratio laid down by the Hon'ble Supreme Court in the case of Dayaram vs. Sudhir Batham reported in 2012 1 SCC 333 and Kumari Madhuri Patil vs. Addl. Commissioner reported in 1994 SCC 241.

4) Per Contra Mr. Ramesh Patil, learned Advocate for Respondent No.1, submits that the Petitioner has suppressed material facts and relied upon forged documents to obtain his caste certificate. He asserts that, the Petitioner belongs to the Maratha community, as evident from his school leaving certificate dated 24th November, 2013, issued by the Zilla Parishad School situated at Nandgaon, Taluka Sudhagad, District Raigad which explicitly records the Petitioner's caste as "Hindu Maratha".

4.1) He further submits that, in the year 2021, the Petitioner's father, Mr. Balaji Bandu Sawant, applied for registration of a Trust named 'Nandgaon Parishad Maratha Samaj Unnati Mandal' under the Bombay Public Trust Act, 1950 and continues to serve as its President. He points out that, the primary eligibility criteria to become a member of this Trust is that the individual must belong to the Maratha community, be over 18 years of age and reside in Nandgaon area. In support, he relies on the Trust application of the Petitioner's father, annexed at Exhibit-A to the reply dated 29th January 2025 filed by Mr. Jalinder Tukaram Khaire-Respondent No.1.

4.2) Mr. Patil further submits that, the Petitioner has relied upon a fabricated school leaving certificate dated 26th June, 1982, allegedly issued in the name of his father, to support claim of Kunbi caste. However, a report submitted by the Headmaster of the Raigad Zilla Parishad School, Vitthalwadi, Taluka Roha , categorically states that the said certificate was not issued by the school and that the name of Petitioner's father does not appear in the school admission Register.

4.3) Mr. Patil contends that, the Petitioner deliberately withheld the admission register and accompanying report dated 24th November, 2023, issued by the Raigad Zilla Parishad School, Nandgaon, Taluka Sudhagad, which also records the Petitioner's caste as Hindu Maratha. These reports dated 28th February, 2024 and 24th November, 2023 are annexed at Exhibit-E and F to the reply.

4.4) He further submits that, the Petitioner has relied upon the caste validity certificate dated 19th April, 2018 issued in favour of his cousin sister, Smt. Jyoti Ganpat Sawant. However, two of the three committee members accepted her Kunbi caste claim based on the same forged school leaving certificate of the Petitioner's father, while one member dissented. The Order of the Caste Validity Committee, dated 19th April, 2018, explicitly records that the Petitioner's father's school leaving certificate was forged.

4.5) In light of the above facts, Mr. Patil contends that the Petitioner has committed fraud on Respondent Nos.2 to 4 as well as with this Court. He therefore submits that the Petition is devoid of merit and deserves to be

dismissed with costs.

5) Ms. Thakur, learned Advocate appearing for Respondent Nos.2 to 5, submitted that, the school leaving certificate of the Petitioner's father was verified by the Police Vigilance Cell of Respondent No.4-Committee and it was found that the school records did not reflect an entry of admission or issuance of a leaving certificate in the name of Balaji Bandu Sawant. Specifically, the records of the Raigad Zilla Parishad School, Vitthalwadi, Taluka Roha, District Raigad were examined, including the original general school admission register, and no entry corresponding to Balaji Bandu Sawant was found. She submitted that, accordingly, the document was unauthenticated and could not be relied upon.

5.1) She further endorsed the submission of Mr. Patil regarding the caste validity certificate of the Petitioner's cousin sister, which was also based on the same forged document and therefore cannot lend any support to the Petitioner's case.

5.2) Addressing the Petitioner's contention that opportunity of hearing was afforded, Ms. Thakur submitted that, such an allegation is contrary to the record as well as the averments in the Petition itself. She pointed out that, the Petitioner was in fact, granted an opportunity of hearing on three occasions i.e. on 16th March 2024, 27th March, 2024 and 30th April 2024. The Petitioner was also permitted to submit additional documents in support of his caste claim. However, he failed to remain present before the Committee on the subsequent date and did not furnish any further supporting evidence.

In light of the above, she submitted that, the Respondent No.4- Committee rightly invalidated the caste claim by its Order dated 14th May, 2024.

6) In rejoinder Mr. Gavnekar relied upon the judgment in the case of Apoorva d/o Vinay Nichale v Divisional Caste Certificate Scrutiny Committee No. 1 and Ors reported in 2010 SCC OnLine Bom 1053, to submit that a different view on the same facts would not entitle the committee dealing with the subsequent caste claim to reject it.

7) We have heard all the learned counsel for the respective parties and perused entire record.

8) At the very outset, we find ex facie that, the Petitioner has not approached this Court with clean hands. It is well settled that the party who invokes the extraordinary jurisdiction of this Court is supposed to be truthful, frank and must necessarily disclose all the material facts without any reservation, even if they are against such party. It is not open to a Party who seeks equity to play "hide and seek" or to "pick and choose" certain facts and to suppress and/or conceal other facts. These principles are categorically laid down by the Hon'ble Supreme Court in the case of K.D. Sharma vs. Steel Authority of India Limited & Ors. reported in (2008) 12 SCC 481. In the present case the Petitioner's conduct indicates an attempt to perpetrate a fraud on the Court. On that ground alone, the Petitioner is disentitled to any relief.

9) In our view, the present Petition is nothing but a speculative attempt and appears to be a clear instance of chance litigation. The averments made are self-contradictory. On the one hand, in paragraph 12 of the Petition, the Petitioner contends that Respondent No.4 passed the impugned Order without affording him an opportunity of hearing; yet contradictorily in paragraph No.8, he admits that, hearings were conducted on multiple dates.

10) The reliance placed by learned Advocate Mr. Gavnekar in the case of Apoorva's case (supra) is misplaced. While the judgement holds a contrary view taken by a subsequent Committee, in itself may not invalidate an earlier caste validity certificate, it also categorically lays down that if the earlier certificate was obtained by fraud, the Committee dealing with the subsequent claim is neither bound to follow the earlier caste validity certificate nor precluded from rejecting the claim. In such circumstances, the Committee is also empowered to initiate appropriate action against the Applicant.

11) The reliance placed by Mr. Patil on the decision in Raju Ramsing Vasave vs. Mahesh Deorao Bhivapurkar & Ors. reported in (2008) 9 SCC 54 is squarely applicable to the facts of this case.

12) In our view, the Petitioner has attempted to take undue advantage of a caste certificate procured through fraudulent means. Such conduct is wholly and brazenly inconsistent with the constitutional ethos and amounts to nothing short of a constitutional fraud. The Petitioner's action strike at the very foundation of the affirmative action framework envisaged under the Constitution.

13) In view of the above, we dismiss the Petition with exemplary costs of Rs.5,00,000/- to be payable to the 'Armed Forces Battle Casualties Welfare Fund' within a period of four weeks from the date of uploading of the present Judgment on the official website of the High Court of Bombay.

13.1) Details of the bank account for payment of cost are as under:

Account Name : Armed Forces Battle Casualties Welfare Fund.

Account Number : 90552010165915.

Bank Name : Canara Bank.

Branch : South Block, Defence Headquarters,
New Delhi - 110011.

IFSC Code : CNRB0019055.

14) The Learned AGP shall intimate about this Order imposing costs by email, sms or WhatsApp to the Authorised Officer of the Armed Forces Battle Casualties Welfare Fund and maintain record of it.

15) If the Petitioner fails to deposit the said cost within the stipulated period as noted hereinabove, the Authorised Officer of the Armed Forces Battle Casualties

Welfare Fund shall intimate the learned AGP by email or otherwise about the breach, who on such intimation, shall file an Application before this Court for execution of the present Order and for recovery of the said amount.

16) Petition is dismissed in aforesaid terms.