

**(2008) 03 BOM CK 0086**

**In the Bombay High Court**

**Case No : Writ Petition No. 1317 of 2007**

Deepika Yogeshwar Nandanwar

APPELLANT

Vs

State of Maharashtra and Others

RESPONDENT

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**Date of Decision : 27-03-2008**

**Acts Referred:**

Constitution of India, 1950 — Article 226, 324(1)

**Citation :** (2008) 3 ALLMR 537 : (2008) 3 BomCR 630 : (2008) 110 BOMLR 1047 : (2008) 3 MhLj 872

**Hon'ble Judges :** Ranjana Desai, J;R.S. Dalvi, J

**Bench :** Division Bench

**Advocate :** R.K. Mendadkar, for the Appellant; P.P. Kakade, AGP, for the Respondent

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## **Judgement**

Ranjana Desai, J.—The petitioner claims that she belongs to Halbi Scheduled Tribe which is recognized as Scheduled Tribe under the Presidential Notification issued under Article 324(1) of the Constitution of India. In this petition filed under Article 226 of the Constitution of India, the petitioner seeks to challenge judgment and order dated 24/1/02 passed by respondent 2 i.e. Scheduled Tribe Certificate Scrutiny Committee, Konkan Division, Thane ("the Scrutiny Committee" for short).

2. The facts of the case may have to be shortly stated. According to the petitioner, the petitioner was granted caste certificate on 10/11/98 by the Competent Authority certifying that she belongs to Halbi Scheduled Tribe. While the petitioner was prosecuting her studies in the 12th Standard, she moved the Scrutiny Committee in the month of November, 2005 for validation of her caste certificate. The Scrutiny Committee however, did not take any steps in the matter. The petitioner passed her XII standard Science Examination in the month of June, 2006. Since the Scrutiny Committee had not decided her case she addressed a letter to it on 11th June, 2006 and pointed out that admission process was likely to commence on 3rd June, 2006. She requested that validity

of her case certificate may be decided. In the meantime she appeared for MH-CET Examination. Despite constant follow-up the Scrutiny Committee did not decide her case. The petitioner, therefore, filed writ petition in this Court. The said writ petition was disposed of by this Court on 15/6/06 giving a general direction. It was inter alia directed that if the students have already applied for caste certificate and their applications are pending before the relevant committees, then the institutions must grant provisional admissions to such students. The admissions will be subject to the decision of the Scrutiny Committee and under no circumstances will any student be entitled to claim equity to continue the studies, if the caste/tribe certificate is rejected or not validated. The Scrutiny Committees entrusted with the responsibility of deciding the caste validity of those applicants who have applied for admissions to professional courses were directed to consider their cases on priority and dispose them of not later than six months from the date of the application.

3. On the basis of the said judgment, the 3rd respondent granted admission to the petitioner to the 4th respondent college in the first year M.B.B.S. Course under the reserved category of Scheduled Tribe in the month of July, 2006.

4. According to the petitioner on or about 24/8/06 upon her instructions her advocate addressed a letter to the Scrutiny Committee in which he pointed out that the writ petition filed by the petitioner was disposed of by the High Court after giving several directions and that she was granted admission in the 4th respondent college subject to production of caste validity certificate within twelve weeks from the date of admission. The Scrutiny Committee was requested to expedite the hearing of the case.

5. In the meantime one Shri Rajput filed SLP in the Supreme Court challenging the judgment and order dated 15/6/06 passed by this Court in the petitioner's writ petition. The petitioner, through her advocate appeared in the said petition. On 12/2/07 the Supreme Court disposed of the said petition by observing that the respondents therein are continuing on the basis of an interim order passed by the High Court. The Supreme Court directed the respondents to produce valid caste certificate within a period of three weeks before the authorities concerned. The Supreme Court observed that in case they do not produce such certificate, they shall be denied admission and the authorities shall pass appropriate orders.

6. An application for clarification was made by the petitioner because on account of the Supreme Court's order her admission stood cancelled vide orders dated 16/3/07 and 22/3/07. The Supreme Court did not issue any clarification but observed that if an application is filed by either of the parties, the High Court shall decide the said application at an early date and pass appropriate orders in accordance with law. That is how on a motion made for early hearing we have taken up this petition for final hearing.

7. According to the petitioner in the meantime since nothing was done by the Scrutiny Committee by her advocate's letter dated 7/10/06, she again called

upon the Scrutiny Committee to decide her case. The Scrutiny Committee issued letter dated 22/11/06 along with enquiry report dated 14/2/06 submitted by the police inspector of the vigilance cell and directed the petitioner to appear on 5/12/06 for hearing along with the explanation on the enquiry report.

8. The petitioner filed a reply dated 4/12/06. By the impugned order dated 24/1/07 the Scrutiny Committee invalidated the caste certificate of the petitioner. Being aggrieved by the said judgment and order, the petitioner has filed this petition.

9. We have heard Mr. Mendadkar, learned Counsel appearing for the petitioner. Mr. Mendadkar submitted that the Scrutiny Committee erred in invalidating the caste certificate of the petitioner. He pointed out that the vigilance cell headed by Shri Mahesh Joshi, Senior Police Inspector had caused a detailed enquiry to be made into all aspects of the matter including anthropological, ethnological moorings of the petitioner. The said report was placed before the Research Officer and the Research Officer had recorded a remark that the traditions of the petitioner match the traditions of Halba Scheduled Tribe. Mr. Mendadkar pointed out that instead of accepting the report of vigilance cell dated 14/2/06 the Scrutiny Committee unnecessarily directed a re-enquiry. Shri Bandagar, Police Inspector of vigilance cell then conducted a re-enquiry and submitted a report in which he stated that 29 persons having Surname Nandanwar had applied for caste certificate and their certificates have been invalidated by the Amravati Scrutiny Committee. On the basis of this observation the Scrutiny Committee invalidated the petitioner's claim. Mr. Mendadkar contended that the Scrutiny Committee ignored the documents produced by the petitioner which pertained to pre-presidential order period. He pointed out that the petitioner had produced school leaving certificate of her grandfather. The said certificate is dated 17/3/1922. It states the caste of the grandfather of the petitioner as Halbi. The petitioner had also submitted sale deed dated 27/4/1923 which describes the great grandfather of the petitioner as "person belonging to Halbi Tribe". Learned Counsel submitted that the earlier vigilance cell report is completely in favour of the petitioner. The Scrutiny Committee should have, therefore, accepted it. The Scrutiny Committee wrongly took into consideration the fact that 29 persons bearing Surname Nandanwar were found not to belong to Halbi Tribe by the Amravati Scrutiny Committee. He submitted that surname is not relevant. In this connection learned Counsel relied on the judgment of the Supreme Court in *State of Maharashtra and Others Vs. Ravi Prakash Babulalsing Parmar and Another*, . Learned Counsel also relied on judgment of the Supreme Court in *Kumari Madhuri Patila and another Vs. Addl. Commissioner, Tribal Development and others*, , where the Supreme Court has laid stress on the importance of Affinity test and the report of the vigilance cell. Learned Counsel drew our attention to the Maharashtra Scheduled Caste, Scheduled Tribes, De-Notified Tribes, (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000. He drew our attention to Section 11 thereof which states what

documents a person desirous of availing benefits of concession provided to the Scheduled Tribes should produce. Learned Counsel submitted that the petitioner had accordingly produced all relevant documents and those documents should have been taken into consideration by the Scrutiny Committee. Learned Counsel, therefore, prayed that the order be set aside and this Court may declare that the petitioner belongs to Scheduled Tribe Halbi. He urged that this Court may also set aside the orders cancelling admission of the petitioner passed by respondents 3 and 4.

10. As against this learned AGP submitted that no interference is necessary with the impugned order. He drew our attention to the affidavit of Snehal A. Govekar, Research Officer of the Scrutiny Committee. Learned Counsel submitted that the first report submitted by the vigilance cell was not found satisfactory by the Scrutiny Committee and, therefore, re-enquiry was ordered. The re-enquiry disclosed that 29 persons having surname Nandanwar had applied to the Scrutiny Committee Amravati for validating their caste claim. The Amravati Scrutiny Committee invalidated their claim. The Enquiry Officer who conducted the re-enquiry has observed that people belonging to the same area and whose certificates have been invalidated by the Scrutiny Committee Amravati were not co-operating with the Government Officials and therefore, it was difficult to collect information from local residents. He submitted that the occupation of the two relatives of the petitioner have been shown as "Koshti". Weaving is the occupation of Koshties of the Amravati area. The petitioner therefore, cannot be said to belong to Halbi Scheduled Tribe. He submitted that in the circumstances, the petition deserves to be dismissed.

11. Before going to the merits of the case, it is necessary to focus our attention on the judgment of the Supreme Court in Madhuri Patil's case (supra), because that judgment lays down the guiding principles to be followed in the matter of caste certificates. In that case the Supreme Court has discussed the nature of the duties and responsibilities of the Revenue Officers of gazetted cadre who issue social status certificate after due verification to persons belonging to tribes or tribal communities specified by the President by issuing notifications so that on the basis thereof they can avail of the benefit of the State's reservation policy and get admissions to educational institutions or employment to an office or post under the State to the earmarked quota.

12. The Supreme Court has observed that the Scheduled Tribes are inhabitants of intractable terrain regions of the country kept away from the mainstream of national life and with their traditional moorings and customary beliefs and practices, they are largely governed by their own customary code of conduct regulated from time to time with their own rich cultural heritage, mode of worship and cultural ethos. The Supreme Court further observed that anthropological moorings and ethnological kinship affinity gets genetically ingrained in the blood and no one would shake off from caste, in particular, when one is conscious of the need of preserving its relevance to seek status of

Scheduled Tribe or Scheduled Caste recognised by the Constitution for their upliftment in the society.

13. The Supreme Court has further observed that Hindu social order is based on hierarchy and caste was one of the predominant factors during pre-Constitution period. The entries in the school register preceding the Constitution do furnish great probative value to the declaration of the status of a caste. The Supreme Court further observed that hierarchical caste stratification of Hindu social order has its reflection in all entries in the public records. The Supreme Court went on to say that the correct projectives furnished in proforma and the material would lend credence and give assurance to properly consider the claims of the social status and the officer or authority concerned would get an opportunity to test the claim for social status of particular caste or tribe. The authority or the officer would then reach a satisfactory conclusion on the claimed social status.

14. The Supreme Court thereafter streamlined the procedure for the issuance of social status certificates, their scrutiny and their approval. In the present context it is necessary to quote step 5 noted by the Supreme Court. It reads as under:

5. Each Directorate should constitute a vigilance cell consisting of Senior Deputy Superintendent of Police in over-all charge and such number of Police Inspectors to investigate into the social status claims. The Inspector would go to the local place of residence and original place from which the candidate hails and usually resides or in case of migration to the town or city, the place from which he originally hailed from. The vigilance officer should personally verify and collect all the facts of the social status claim by the candidate or the parent or guardian, as the case may be. He should also examine the school records, birth registration, if any. He should also examine the parent, guardian or the candidate in relation to their caste etc. or such other persons who have knowledge of the social status of the candidate and then submit a report to the Directorate together with all particulars as envisaged in the proforma, in particular, of the Scheduled Tribes relating to their peculiar anthropological and ethnological traits, deity, rituals, customs, mode of marriage, death ceremonies, method of burial of dead bodies etc. by the castes or tribes or tribal communities concerned etc.

15. The Supreme Court has then observed that in case the report of the vigilance cell is in favour of the candidate and found to be genuine and true, no further action need to be taken except where the report or the particulars given are procured or found to be false or fraudulently obtained. In such a case the Director concerned has to issue a show cause notice supplying a copy of the report of the vigilance officer to the candidate and indicating that representation if any should be made within two weeks from the date of receipt of the notice. After giving proper opportunity to the candidate, the Committee has to make such inquiry as it deems expedient and pass an appropriate order with brief reasons in support thereof.

16. In the light of the above principles, this case must be examined. The first

vigilance report indicates that during home inquiry the vigilance officer studied the traits of the Halbi Tribe. After considering traditional deities, festivals, traditional dresses, traditional dances, traditional occupations, religious traditions, traditional rites before birth and after birth and funeral rites etc. the enquiry officer submitted a report to the Research Officer. The report also included the observations of the vigilance officer that in the birth certificate issued by the Municipal Council Achalpur of the uncle of the petitioner one Dattatray Sadashiv Nandanwar, date of birth is shown as 3/11/49. It is registered on 5/11/49 and it shows the caste as "Halbi". It is further stated that in the school leaving certificate of Sadashiv Nagoji Nandanwar the grandfather of the petitioner, his caste is recorded as Halbi. The date of admission is 17/3/22. It is also stated that copy of sale deed between great grandfather of the petitioner one Nagorao and his relative Laxman H. Pakhale executed on 7/4/1923 mentions the caste of great grandfather of the petitioner as Halbi. On this report the Research Officer has made a note on 6/10/2006 that the customs of the petitioner match those of Halba Scheduled Tribes.

17. The Scrutiny Committee was not satisfied with this report of the vigilance cell and the remarks of the Research Officer. The Scrutiny Committee, therefore, again handed over the matter to another police inspector of the vigilance cell for re-enquiry. Second inquiry is conducted by P I Annasaheb Bandgar. PI Bandgar submitted his report on 13/11/06. This report states that copies of agreement and original agreement made on stamp paper of 8 annas and 4 annas by Hiranman Dattuji Halbi and Nagoji Dattuji Halbi regarding possession of house are with the father of the petitioner i.e. Yogeshwar Nandanwar and they are seen by PI Joshi. It is further stated that Deputy Registrar Birth and Death, Municipal Council, Achalpur made inquiry about birth and death of Khushal Ganpat, Ramchandra Nagoji and Sriram Tukaram. During inquiry statement of Arjun Ganpatrao Nandanwar a close relative of the petitioner was recorded. Arjun Nandanwar stated that the petitioner's father who is a doctor and who stays at Bombay is his uncle. He further stated that Khushal Ganpat, Ramchandkra Nagoji and Sriram Tukaram are their distant relatives and weaving used to be their occupation. He has further stated that people bearing surname Nandanwar residing at Achalpur belong to Koshti Community.

18. The report further states that the Scrutiny Committee at Amrawati has invalidated the claims of 30 candidates, whose surnames are Nandanwar, that their caste is Halbi. It must be stated here that though the report gives the number of such candidate as 30, there are in fact 29 such candidates. There is a typing error in noting the serial number. It is further stated in the report that in the inquiry with the Municipal Council Primary School at Samaraspura it was found that the caste of Shankar Ganpat Nandanwar, nephew of the petitioner is mentioned as Halbi and his occupation is mentioned as weaver. The report further states that therefore, it is established that the caste of the petitioner's ancestors is Halbi. PI Bandgar has enclosed the extract of admission register of Shankar Nandanwar to the report. He has also annexed copies of Amrawati

Committee's decision invalidating Halbi Tribe claim of 29 persons bearing Nandanwar surname.

19. PI Bandgar has further stated that in village Achalpur 40% to 50% population is of Halbi tribe. PI Bandgar has further observed that persons whose claims have been invalidated by Amravati Committee did not cooperate with the government officers in the inquiry. PI Bandgar has further stated that secret inquiry made in the village indicates that persons whose claims have been invalidated by the Amravati Committee must be distantly related to the petitioner. This report is signed by PI Bandgar. Deputy Superintendent of Police Vigilance Cell has confirmed that PI Bandgar has visited Achalpur village, that he had made enquiry with the school and that he had visited the Amravati Scrutiny Committee office. Deputy Superintendent of Police has countersigned the report.

20. We have already quoted the observations of the Supreme Court in Madhuri Patil's case that in case vigilance report is found to be genuine no further action need to be taken, but where the report is found to be false or fraudulently obtained notice must be given to the candidate. The candidate must be given opportunity of hearing and then the committee must pass an appropriate order with brief reasons in support thereof (paragraphs 6 & 7 of Madhuri Patil's judgment). Ordinarily therefore, after the first report, with which the committee was not satisfied notice ought to have been given to the petitioner. But the Scrutiny Committee ordered a second inquiry. That report was submitted on 13/11/06. Thereafter a show cause notice dated 22/11/06 was issued to the petitioner and she was asked to remain present on 5th December, 2006. The petitioner participated in the inquiry. Though grievance has been made that it was not necessary to call for report, no grievance has been made by Mr. Mendadkar in the court, nor any grievance is raised in the petition that the necessary procedure was not followed before ordering the second inquiry. The applicant has infact responded to the show cause notice. It is, therefore, not necessary to examine that aspect.

21. Petitioner was fully heard. Her explanation was perused by the Scrutiny Committee. The petitioner relied on school leaving certificate of her grandfather dated 17/3/22 and copy of a sale deed dated 27/4/23, where her great grandfather's caste is shown as Halbi. She heavily relied on the first vigilance cell report. She submitted that extract of Ramchandra Nagoji and Khushal Ganpat cannot be used since they are not her blood relatives. She raised objection to the finding recorded in the second report of the Vigilance Cell that traditional occupation of her forefathers is weaving. According to her 29 persons bearing the name Nandanwar, who come from Achalpur and whose claims have been invalidated by the Amravati Scrutiny Committee are not her blood relatives. She contended that the second vigilance report is vague. She relied on the judgment of the Nagpur Bench of this Court in Pragati Bhujale v. Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati (Writ Petition No. 571 of 2004 decided on 13/12/04).

22. After perusing the documents and after considering the contentions of the petitioner, the Scrutiny Committee came to a conclusion that though the petitioner had submitted two documents pertaining to pre-presidential order period, the vigilance cell has brought extract pertaining to Khushal Ganpat and Ramchandra Nagoji of the year 1938, wherein their caste is mentioned as "Koshti". These documents are also documents of pre-presidential order period. The Scrutiny Committee observed that the petitioner has cleverly refused to accept Khushal Ganpat and Ramchandra Nagoji as her relatives. The Scrutiny Committee has held that though the petitioner's grandfather's caste has been mentioned as Halbi, it must be noted that her father's 2 relatives caste has been found to be "Koshti" and those documents also pertain to the period prior to 1950. The Scrutiny Committee has also taken into consideration 29 cases of persons bearing the name Nandanwar from Achalpur village whose claims have been invalidated by the Amravati Scrutiny Committee. The Scrutiny Committee has, therefore, observed that Nandanwars do not belong to Halbi Scheduled Tribe. The Scrutiny Committee has observed that the vigilance cell in its second report has referred to a document pertaining to the petitioner's relative Shankar Ganpat. In that document Shankar Ganpat's occupation is shown as weaving. In her explanation the petitioner has accepted that Shankar is her relative but in the genealogy submitted by her she has suppressed certain names of relatives whose record does not support her. Occupation of weaving is a prohibited occupation so far as Halbi community is concerned. The Scrutiny Committee has further observed that the fact that Shankar Ganpat's occupation is shown as "weaving" establishes that he is a Koshti. Admittedly weaving is the occupation of Koshtis in the Amravati area. The Scrutiny Committee has further observed that report submitted by PI Bandgar dated 13/11/06 is based on information gathered by him after contacting the relatives of the petitioner from her original place of residence. The petitioner has also suppressed the names of Khushal Ganpat and Ramchandra Nagoji from the genealogical tree because Khushal Ganpat and Ramchandra Nagoji's caste is shown as Koshti. So far as Pragati Bhujale's case (supra) is concerned the Scrutiny Committee has expressed that that judgment is applicable only to that particular case. Pragati Bhujale is not a relative of the petitioner, therefore, that case cannot be treated as a supporting material for the petitioner's claim. In view of the above the Scrutiny Committee, by the impugned order negated the claim of the petitioner.

23. We have already noted the observations of the Supreme Court in Madhuri Patil's case relating to role of the vigilance committee, the importance of its report and the procedure to be followed by the Scrutiny Committee. A candidate is expected to place before the Scrutiny Committee credible evidence in support of his claim. That enables the Scrutiny Committee to test the veracity of the claim of the candidate. The Supreme Court has held that the entries in the school register preceding the Constitution do furnish great probative value to the declaration of the status of a caste. It cannot be forgotten that the petitioner has placed before the Scrutiny Committee two documents of the pre Constitution



period. She has produced primary school record of the year 1922 of her grandfather which mentions his caste as Halbi. There is a sale deed executed by the great grandfather of the petitioner in the year 1923 wherein he is described as Halbi. These documents, therefore, are of great probative value. The first vigilance report dated 14/2/06 supports the case of the petitioner that she belongs to Halbi tribe. Not being satisfied with the first report the Scrutiny Committee ordered a second inquiry. The second report is dated 13/11/06. The second report does not support the petitioner. It is this report that has weighed with the scrutiny committee. It is, therefore, necessary to see whether the scrutiny committee is right in arriving at the conclusion on the basis of the second report that the petitioner is not Halbi.

24. The second report refers to the statement of one Arjun Nandanwar, a relative of the petitioner. Arjun Nandanwar has stated that the petitioner hails from Achalpur; that her relatives bearing surname Nandanwar reside at Achalpur; their occupation is weaving and that persons bearing Nandanwar surname belong to Koshti community. Though in the petition it is stated that statement of Arjun Nandanwar is not supplied to the petitioner, in her affidavit-in-reply Smt. Govekar, Research Officer has stated that the said statement was sent to the petitioner by post on 12/1/07. This has not been denied by the petitioner. The Scrutiny Committee has also in its order stated that the said statement has been supplied to the petitioner. This is further evident from the fact that in her written arguments submitted in the court as well as in her affidavit-in-reply the petitioner has referred to the contents of the said statement. The petitioner has accepted that Arjun Nandanwar is her relative. While denying the case of the vigilance officer as stated in the second report that the petitioner's relatives are not cooperating with the officers of the vigilance cell, the petitioner has stated that one of her relatives, that is, Arjun Ganpat Nandanwar has given all the relevant and germane information to the police inspector of vigilance cell. It is pertinent to note that vigilance cell has brought on record birth extracts of Ramchandra Nagoji & Khushal Ganpat. Their occupation is shown as Koshti. Arjun Nandanwar has stated that these two persons may be distant relatives of the petitioner, though they are not from the genealogical tree of the petitioner. However, the petitioner has disowned that these two persons are related to her.

25. The vigilance cell has also produced one document of the year 1964 in respect of Shankar Ganpat Nandanwar. Though Shankar Nandanwar's caste is shown as Halbi, his occupation is shown as Koshti. The petitioner has not denied that Shankar Ganpat is her relative, but has stated that one isolated document showing occupation of Shankar Ganpat as weaving cannot be sole deciding factor of caste. Scrutiny Committee has observed that Shankar Ganpat's name is not shown in the genealogy. The Scrutiny Committee has further observed that the petitioner has suppressed certain names. These names are purposely not mentioned in the genealogy because their record does not support her.

26. Thus the petitioner has disowned her relationship with Ramchandra Nagoji

and Khushal Ganpat whose occupation is shown as Koshti though her relative Arjun Nandanwar has stated that they are distantly related to her. She has accepted Shankar Ganpat to be her relative, but the document showing his occupation as "Koshti" is tried to be got over by saying that a sole entry like this will not prove that the petitioner belongs to Koshti community. Undoubtedly such conduct is bound to give rise to suspicion. Added to the above are the 29 cases of persons bearing surname Nandanwar coming from Achalpur from where the petitioner hails. Their claims that they belong to Halbi tribe has been negated by the Amravati Caste Scrutiny Committee. Against the background of the statement made by relative of the petitioner, Arjun Nandanwar, that persons bearing surname Nandanwar come from Achalpur, their occupation is Koshti; they belong to Koshti community and that the petitioner's relatives bearing Nandanwar surname reside at Achalpur, 29 orders passed by the Amravati Scrutiny Committee assume importance. This circumstance does create doubt.

27. But in this connection it is necessary to refer to the judgment of the Supreme Court in *State of Maharashtra v. Ravi Prakash Babulalsing Parmar*'s case (supra). In that case the High Court had proceeded on the premise that once the surname of the candidate tallied with the name of the tribe, which finds mention in one or the other entries of the schedule appended to the 1976 order made in terms of Article 341 of the Constitution of India, the same must be treated to be sacrosanct and no enquiry in relation to the correctness of the said certificate can be gone into by the Scrutiny Committee. The Supreme Court observed that these observations of the High Court were not only contrary to the judgments of the Supreme Court but also fell short of the ground realities. Therefore, surname by itself is not indicative of the caste. We, therefore, cannot go by the fact that claim of certain Nandanwars coming from Achalpur that they are Halbis has been rejected by the Amravati Scrutiny Committee. This is more so because the petitioner has sworn an affidavit in the present case and stated that those 29 persons are not her blood relatives. We have accepted this statement. The petitioner's father is present in the court. We asked learned Counsel for the petitioner whether he confirms that those 29 persons are not his blood relatives. The petitioner's father through his lawyer made a statement for himself and on behalf of the petitioner that those 29 persons are not his blood relatives. He has stated that they are not related to him from paternal side. We have accepted this statement. The petitioner's father is a doctor. He must know the consequences of making a false statement in the court. In case this statement made by the petitioner and her father prove to be false, they are liable to be prosecuted. If any of these 29 persons try to establish that they are relatives of the petitioner and her father and establish the relationship, the petitioner and her father will not only be prosecuted but they will be stripped of their degrees and all the benefits they have taken on the basis that they belong to Halbi tribe. We have made this known to the petitioner's father who is present in the court.

28. It must also be mentioned that the second vigilance cell report states that the secret inquiry made in Achalpur indicates that those Nandanwars whose

certificates have been declared to be invalid by Amravati Scrutiny Committee may be related to the petitioner but they are not cooperating with the officers and are not prepared to give any written statement. Therefore, this report does not affirmatively state that these 29 persons are related to the petitioner.

29. Though, we feel that in this case there are some circumstances which create doubt that doubt is erased by two pre Constitution documents mentioning the petitioner's grandfather and great grandfather's caste as Halbi and the first vigilance report stating that customs of the petitioner match those of Halba Scheduled tribe. Moreover though the occupation of the petitioner's relative Shankar Ganpat is shown in the school record as Koshti his caste is shown as Halbi. All this persuade us to hold that caste of the petitioner is Halbi. What has really weighed with us are the two pre-Constitution documents produced by the petitioner. The statement of Arjun Nandanwar cannot outweigh the effect of the two pre-Constitution documents. In the light of the judgment of the Supreme Court in Madhuri Patil's case it must be held that the two pre-constitution documents have great probative value. The first vigilance report also states that customs of the petitioner match with those of Halbi Scheduled Tribe. In the circumstances, we will have to set aside the impugned order. Hence we pass the following order:

The impugned order dated 24/1/07 passed by the Scrutiny Committee is quashed and set aside. We direct the Scrutiny Committee to issue caste validity certificate in respect of the caste certificate dated 10/11/98 issued by the Deputy Collector Mumbai City in favour of the petitioner certifying that she belongs to Halbi Scheduled Tribe.

We set aside the orders dated 16/3/07 and 22/3/07 issued by respondents 3 and 4 respectively cancelling the admission of the petitioner.

We make it clear that we have accepted the statement made on oath by the petitioner by filing affidavit that the 29 persons bearing Nandanwar surname, whose caste validity certificates have been invalidated by the Amravati Scrutiny Committee are not her blood relatives. We have accepted the statement made by the petitioner's father in this Court on his behalf and on behalf of the petitioner that the said 29 persons are not their blood relatives and that they are not related to them from paternal side. We direct that if at any point of time the said 29 persons or anyone related to them claim to be blood relatives of the petitioner and her father, if they claim to be related to the petitioner and her father from paternal side and if they are successful in establishing the said relationship, the petitioner and her father should be prosecuted for making a false statement in this Court. If such a prosecution is initiated, all the materials collected during the second vigilance report dated 13/11/06 can be used against them in the trial. In that case even the pre-Constitutional documents which we have held as having probative value will be subjected to judicial scrutiny and their genuineness can be examined. Needless to say that the court will examine the case independently and in accordance with law. If the prosecution is initiated, during the pendency of

the trial, the degree of the petitioner and the benefits which the petitioner and her father and the members of their family have obtained on the basis that they belong to Halbi Scheduled Tribe shall stand suspended. Needless to say that, if the petitioner and her father are convicted they will be stripped of all their degrees and benefits which they have taken on the basis that they belong to Halbi Scheduled Tribe. The above directions will also apply to members of the petitioner and her father's family in case they have obtained such benefits.

Petition is disposed of in the aforestated terms.

Registrar General is directed to send a copy of this judgment to all Caste Scrutiny Committees in the State and to the Social Welfare Department of Government of Maharashtra, Mantralaya, Mumbai, for information.