

(2025) 04 BOM CK 0244

In the Bombay High Court, Aurangabad Bench

Case No : Writ Petition No.5299 Of 2024 With Civil Application No.6912 Of 2024

Ganesh Narayan Koli Bagul

APPELLANT

Vs

State Of Maharashtra Through Its Secretary And Others

RESPONDENT

Date of Decision : 08-04-2025

Acts Referred:

Constitution of India, 1950 — Article 14, 226, 341, 342
Maharashtra Scheduled Castes, 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 — Section 7, 8, 10, 11

Citation : (2025) 04 BOM CK 0244

Hon'ble Judges : Mangesh S. Patil, J; Prafulla S. Khubalkar, J

Bench : Division Bench

Advocate : M.V. Thorat, P.J. Bharad

Final Decision : Dismissed

Judgement

Prafulla S. Khubalkar, J

1. Heard.
2. Rule. Rule made returnable forthwith and heard finally by consent of parties.
3. The petitioner has assailed the order dated 18th March 2024 passed by respondent No.2 Scrutiny Committee invalidating his claim for 'Tokre Koli', Scheduled Tribe, in a proceeding under Section 7 of the Maharashtra Scheduled Castes, 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, (for short 'the Maharashtra Act No.XXIII of 2001').
4. Claiming to be an elected Sarpanch of village Kheddigar, the petitioner's tribe claim came to be referred to respondent No.2 Scrutiny Committee for validation of 'Tokre Koli' Scheduled Tribe certificate.

5. By the impugned order, the Committee has observed that the petitioner failed to establish his claim on the basis of documentary evidence as well as on account of failure to prove his affinity with 'Tokre Koli' tribe. While dealing with the documentary evidence, the Committee has assigned varied reasons for discarding the documents relied upon by the petitioner. The Committee has noted its inferences about interpolation in the documents submitted by the petitioner and about the suspicious nature of documents on the basis of which the petitioner tried to establish his claim. The impugned order refers to the documents submitted by the petitioner, mentioning the caste as Koli, Hindu Koli, Tokre Koli. The committee recorded an inference that there are no documents of pre-independence era and the documents relied upon by the petitioner are suspicious and fabricated. The committee has, therefore, invalidated the claim holding the petitioner liable for action under Sections 10 and 11 of the Maharashtra Act No.XXIII of 2001.

6. Advocate M. V. Thorat, appearing for the petitioner vehemently submitted that the impugned order is bad and illegal being passed without considering the vital documentary evidence. He submitted that the committee adopted an erroneous approach to discard the vital documents in support of his tribe claim and that the committee relied upon some documents which are not related to the family members of the petitioner. He invited our attention to the documents filed vide application dated 12th July 2024 bearing Civil Application no. 6912 of 2024 for production of documents, which inter alia include the documents about his election as Sarpanch and the documents of the years 1926, 1941, 1942, 1963 and 1944 relied upon by the petitioner in support of his tribe claim. He filed the colour photocopies of these pre-independence era documents. By relying upon these additional documents, he also tried to put forward a case for remand of the matter to the committee for fresh decision.

7. Per contra, Ms. P.J. Bharad, learned Assistant Government Pleader for respondent nos.1 to 5, strongly opposed the petition and justified the impugned order. She strenuously submitted that the petitioner utterly failed to establish his tribe claim. Her submissions are manifold, including,

i) That the petitioner has engaged in acts of deceit and fraud, which became clear from the interpolations in the documents of the petitioner. She invited our attention to the documents from the original record, which shows interpolations/ insertions in the documents of the years 1926 and 1941.

ii) She also invited our attention to the mischievous conduct of the petitioner, who suppressed the fact that he was earlier granted a tribe certificate dated 21.02.2009, which was under scrutiny before respondent No.2 Committee, however, before decision of its verification, the petitioner again obtained another tribe certificate dated 22.11.2021 and the same was also submitted for verification.

iii) She submitted that the the petitioner not disclosed in the petition the order

dated 26th September 2022 passed by the committee observing that the original residence of the petitioner's family members is Rudawali, Taluka Shirpur District Dhule, however, the caste certificate dated 21.02.2009 was issued by the Sub-Divisional Office, Taloda, which was without territorial jurisdiction.

iv) The petitioner obtained another caste certificate dated 24.02.2022 from the SDO Taloda, which was then referred to the scrutiny committee. The petitioner has challenged the order of invalidation of this certificate.

v) She submitted that the petitioner has failed to disclose in the petition about the first order of the scrutiny committee although it was not a decision on merits. The petitioner has not disclosed reasons for approaching the competent authority on second occasion for obtaining fresh tribe certificate, when the first certificate was under scrutiny.

vi) She adverted our attention to various documents submitted by the petitioner showing discrepancies in the name of the grandfather of the petitioner, discrepancies in the genealogies submitted by the petitioner and also variance in the name of native place of the petitioner, which all demonstrated acts of falsehood and deceit on the part of the petitioner.

Advancing vehement submissions on the above mentioned issues, the learned AGP submitted that the petitioner has played mischief with the Committee by submitting manipulated documents and, therefore, he is not entitled to claim any relief, much less invoking writ jurisdiction of this court.

8. We have considered the rival contentions and perused the papers. We have also perused the original record of the scrutiny committee in the matter of the petitioner which was made available by the scrutiny committee.

9. In order to deal with the challenge and appreciate the contentious issues, it is worthwhile to note certain important aspects related to the facts of the present case. The petition does not narrate complete facts, which becomes clear on perusal of the original record of the petitioner's case:

9.1 The petitioner had obtained tribe certificate dated 21 February 2009, from the Sub-Divisional Officer, Taloda. This tribe certificate was sent for verification before the committee and the matter was pending. This fact is not clarified in the petition.

9.2 During pendency of the tribe claim, the petitioner had obtained another tribe certificate dated 24 February 2022 from the SDO, Taloda, which was also sent for scrutiny, which is filed at Exhibit A to the petition. The impugned order is with respect to invalidation of this tribe certificate.

9.3 The first tribe certificate was also scrutinised by the committee and by order dated 20 September 2022, the committee refused to decide the caste claim on account of issue of territorial jurisdiction, keeping the issue on merits undecided.

9.4 On reference being made to the scrutiny committee, a vigilance cell enquiry

was conducted and the report dated 25 September 2023 was forwarded to the petitioner along with notice dated 27 September 2023. The petitioner submitted his reply dated 11.10.2023 and the matter was kept on 6 November 2023.

9.5 However, thereafter, another vigilance cell enquiry was conducted and the vigilance report dated 29 November 2023 was forwarded to the petitioner along with show cause notice dated 04 December 2023. The petition does not mention any reason or circumstance because of which the second vigilance cell enquiry within two months was required to be conducted.

9.6 The petitioner submitted his reply dated 27 February 2024.

9.7 The record reveals that date was fixed as 6 November 2023, which was fixed for further proceedings, however, prior to this date the matter was taken up on 13 October 2023 and 18 October 2023.

9.8 The committee has passed the final order on 18 March 2024, which makes reference to both the vigilance enquiry reports and even refers to the procedure initiated on the basis of first tribe certificate dated 21 February 2009. The committee has considered all the documents filed by the petitioner in both the proceedings and the genealogies submitted by the petitioner in support of his tribe claim.

10. It has to be noted that the committee has recorded specific observations about interpolations in the documents of the year 1926 and 1941. It is pertinent to note that the first vigilance cell enquiry report dated 25 September 2023, mentions in paragraph 5, the details of interpolations in the documents.

Although the petitioner submitted his reply to this report, the reply does not deal with the specific issues of interpolations in these documents. Even the second Vigilance cell enquiry report records observations about interpolations in the documents of 1926 and 1941, along with discrepancies in the place of residence of forefathers of the petitioners. Although the petitioner has submitted reply dated 27 February 2024, however, the same did not specifically deal with any of these issues, which therefore, remained uncontroverted.

11. In order to deal with the issue of interpolation of the record and legality of the findings of the committee, we have perused the original record. The record reveals that the petitioner has filed on record form number 14 of petitioner's grandmother Madhu Deepa Kashiram dated 23.11.1926 showing entry of birth. This document is extract of birth and death register of the month of November and it shows total birth of three persons in that month. It is pertinent to note that this page shows birth of one male and one female at serial numbers 38 and 39, however, there is one more entry at serial number 40 of birth of one more male and corresponding changes in total number of births as 2.

The entry at serial number 40 appears to have been made by different ink and in different handwriting showing the name of grandfather and caste as 'Dhor'. The interpolation of this document becomes clear from overwriting of the number of

births as 2. The vigilance cell enquiry has observed this interpolation and accordingly, has compared the record from the Tahasil office Taloda on the basis of report of the Tahasildar and certified copies obtained from that office.

11.1 The petitioner has also relied upon another document of Village form number 14 dated 08.07.1941 about entry of birth of his paternal aunt Kala Mahadev Deepa. This document shows that the entry at serial number 42, has overwriting on the names of Madhu Deepa and mentions of caste as 'Tokre Koli', which creates suspicion about this document. The vigilance cell report records that the entry was verified on the basis of report of the Tahasildar Taloda.

11.2 As regards the document of School entry register of the year 1950, which is submitted by the petitioner, showing name of his paternal uncle Buddha Madhu Bagul and caste as 'Hindu Tokre Koli', the vigilance cell enquiry records that in fact, the register was in a torned condition, and few pages only appeared to have been rewritten. It is observed that there is discrepancy in the names and the portion relied upon by the petitioner appears to have been rewritten. Hence it is observed that the document is suspicious in nature.

11.3 As regards, the document submitted by the petitioner with respect to school record of his father, Narayan Madhav Kohli obtained from Zilla Parishad School Amlad, the vigilance cell report records that as against the entry at serial number 58 relied upon by the petitioner, there is name of some other person than that of the father of the petitioner. The vigilance cell enquiry report records this observation on the basis of report obtained from the principal of the said school.

11.4 Crucial to note, the interpolation of the documents of the years 1926 and 1941 and about the other documents being suspicious were specifically mentioned in the vigilance cell report and the same were confronted to the petitioner vide show cause notice dated 27.09.2023 which was served along with vigilance cell enquiry report. The explanation given by the petitioner that record was not in the custody of the petitioner and, therefore, there was no scope of interpolation, was not found to be satisfactory. Pertinent to note all the issues were considered by the committee and after objective scrutiny the committee has recorded findings about interpolation of documents. Even in the petition, there is no explanation at all regarding these vital issues.

12. It is pertinent to note that the petitioner has filed on record these documents along with the petition in a bunch of the documents, without contentions or explanations, despite of the allegations of interpolations and suspicious nature. Even during the course of arguments, the counsel for petitioner was not able to submit any convincing and plausible explanation with respect to these interpolated and suspicious documents.

13. In the light of the above mentioned vital issues which demonstrate the mischievous conduct of the petitioner we find that the petitioner has not at all approached the court with clean hands. We are of the firm view that the petitioner has indulged in deceitful means to manipulate the record for obtaining

a validity certificate.

14. Perusal of the impugned order shows that the committee has correctly appreciated the documentary evidence relied upon by the petitioner.

15. It has to be noted that apart from the above mentioned documents which are found to be unreliable, the petitioner has not relied upon any other documents of pre-independence era to establish his caste claim for 'Tokre Koli', Scheduled Tribe. Further, when the petitioner was confronted with documents of his relatives showing other castes, whose relations are stated in the vigilance cell report, he has straightway disowned those relations and denied his relationship with those persons with evasive replies. Even with respect to other documents relied upon by the petitioner, the committee has observed that there is difference in the name of grandfather of the petitioner as stated in the tribe certificate and the genealogy relied upon by him. Even the genealogy submitted by the petitioner contradicts the documents relied upon by him in his claim of the year 2009.

16. The committee has also categorically observed that the petitioner has created confusion as regards place of residence of his father and grandfather by stating at some places that their original place of residence was Rudawali Taluka Shirpur District Dhule while it is stated at other places that the forefathers belonged to Aamlad, taluka Taloda, District Nandurbar. The impugned order shows that the committee has given due consideration to the documentary evidence. The impugned order is a reasoned one and passed after considering the relevant aspects.

17. On giving due consideration to all the above mentioned aspects with respect to the petitioner's conduct and the documents relied upon him, particularly the interpolated and suspicious documents, we are of the considered view that the petitioner has played mischief and indulged in acts of interpolation and fabrication of documents. The documents of pre-independence era relied upon by the petitioner are found to be unreliable and suspicious as observed in the vigilance cell enquiry report. Despite sufficient opportunity, the petitioner has not submitted any explanation to these allegations of interpolations of documents.

18. The petitioner was duty bound to discharge his burden to prove the tribe claim. The recent pronouncement of the Honourable Supreme Court in Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti vs. The State of Maharashtra and others, AIR 2023 SC 1657, reiterates the position of law about role of the claimant and that of the Scrutiny Committee. Relevant paragraphs are reproduced below:

"15. The law contemplates very detailed scrutiny of the caste claim by the Scrutiny Committee. If both the Competent Authority and the Caste Scrutiny Committee were to make the same degree of scrutiny and detailed enquiry into caste claims, the very object of the two-tier scrutiny will be frustrated. Section 8 provides that the burden of proving a caste claim before the Competent

Authority and the Scrutiny Committee is on the applicant. For discharging the said burden before the Competent Authority, it is enough if the applicant produces prima facie material to show that his caste claim is genuine. The burden put by Section 8 on the applicant to prove his caste status before the Scrutiny Committee is much higher than the burden which he is required to discharge before the Competent Authority.”

“28. On a conjoint reading of the 2000 Act as well as ST and SC Rules framed thereunder, it is impossible to conclude that the Scrutiny Committee discharges only administrative functions. The Scrutiny Committee under the 2000 Act has been entrusted with various powers of the Civil Court under the Code of Civil Procedure, 1908. The powers include a power to enforce the attendance of any witness, to receive evidence on affidavits, to issue commissions for the examination of witnesses or documents etc. The scheme of the 2000 Act and both SC and ST Rules provides for the Scrutiny Committee holding an enquiry on the caste claim of the applicant, if necessary, after examining the applicant on oath, recording evidence of witnesses and calling for documents and records etc. The Scrutiny Committee is expected to record reasons for granting and rejecting the prayer for issue of caste validity certificates. Thus, the Scrutiny Committee has all the trappings of a quasi-judicial authority.”

19. Thus, it is clear that Section 8 of the Maharashtra Act no. 23 of 2001, casts burden to prove the caste claim on the candidate, which has to be discharged by preponderance of probabilities. The candidate is required to discharge the burden on the strength of documentary evidence and if necessary by way of affinity test. The scrutiny committee being a quasi judicial authority is required to decide the caste claim on the basis of documents submitted by the candidate.

20. In the instant case, the documents submitted by the petitioner were found to be interpolated, fabricated, and suspicious. The vigilance cell report records pertinent observations about interpolations and suspicious nature of the documents. The scrutiny committee has passed the impugned order after considering the entire record of the petitioners case. The findings recorded by the scrutiny committee are based on plausible appreciation of the record available before it and are not found to be perverse. The impugned order doesn't need any interference.

21. In the wake of glaring instances of interpolations of record as observed by the committee, which are uncontroverted, we are of the view that the acts of deceit and fraud are apparent. The petitioner has not approached the Court with clean hands. It is apposite to refer to the observations of the Hon'ble Supreme Court while dealing with the matter of caste claim, in Lillykutty vs. Scrutiny Committee, SC & ST and others, (2005) 8 SCC 283. Although this was a case related to the provisions of the Kerala (Scheduled Castes and Scheduled Tribes) Regulation of Issue of Community Certificates Act, 1996, the observations are pertinent, which are reproduced below:

"23. The Scheduled Castes and the Scheduled Tribes in view of the constitutional provisions contained in Articles 341 and 342 of the Constitution occupy a special position. Protective discrimination and affirmative action for the downtrodden people are envisaged in our constitutional scheme despite the fact that the equality clause enshrined under Article 14 of the Constitution is of great significance. (See *E.V. Chinnaiah v. State of A.P.*)."

"24. When, thus, a person who is not a member of a Scheduled Caste or a Scheduled Tribe obtains a false certificate with a view to gain undue advantage to which he or she was not otherwise entitled to, would amount to commission of fraud. Fraudulent acts are not encouraged by the courts. A person for the purpose of obtaining the benefits of the Presidential Order must fulfil the condition of being a member of the Scheduled Castes and continue to be so....."

22. The Honourable Supreme Court, in the matter of *Kishore Samrite v/s State of Uttar Pradesh*, (2013) 2 SCC 398, has tersely observed that a litigant should not be permitted to play mischief for seeking benefits from the Court and frowned upon the litigants abusing process of court. Relevant observations of the Apex Court read thus:-

"37. The person seeking equity must do equity. It is not just the clean hands, but also clean mind, clean heart and clean objective that are the equi-fundamentals of judicious litigation. The legal maxim *jure naturae aequum est neminem cum alterius detrimento et injuria fieri locupletiores*, which means that it is a law of nature that one should not be enriched by the loss or injury to another, is the percept for Courts. Wide jurisdiction of the court should not become a source of abuse of the process of law by the disgruntled litigant. Careful exercise is also necessary to ensure that the litigation is genuine, not motivated by extraneous considerations and imposes an obligation upon the litigant to disclose the true facts and approach the court with clean hands.

38. No litigant can play 'hide and seek' with the courts or adopt 'pick and choose'. True facts ought to be disclosed as the Court knows law, but not facts. One, who does not come with candid facts and clean breast cannot hold a writ of the court with soiled hands. Suppression or concealment of material facts is impermissible to a litigant or even as a technique of advocacy. In such cases, the Court is duty bound to discharge rule nisi and such applicant is required to be dealt with for contempt of court for abusing the process of the court. {*K.D. Sharma v. Steel Authority of India Ltd. & Ors.* [(2008) 12 SCC 481].

39. Another settled canon of administration of justice is that no litigant should be permitted to misuse the judicial process by filing frivolous petitions. No litigant has a right to unlimited drought upon the court time and public money in order to get his affairs settled in the manner as he wishes. Easy access to justice should not be used as a licence to file misconceived and frivolous petitions. (*Buddhi Kota Subbarao (Dr.) v. K. Parasaran*, (1996) 5 SCC 530).

40. In light of these settled principles, if we examine the facts of the present

case, next friends in both the petitions are guilty of suppressing material facts, approaching the court with unclean hands, filing petitions with ulterior motive and finally for abusing the process of the court.”

23. Expressing annoyance about frivolous litigations and mischievous litigants, the Honourable Supreme Court, in the matter of Dnyandeo Sabaji Naik and another vs. Pradnya Prakash Khadekar and others, (2017) 5 SCC 496, has observed in paragraphs 13 and 14 as under:-

"13. This Court must view with disfavour any attempt by a litigant to abuse the process. The sanctity of the judicial process will be seriously eroded if such attempts are not dealt with firmly. A litigant who takes liberties with the truth or with the procedures of the Court should be left in no doubt about the consequences to follow. Others should not venture along the same path in the hope or on a misplaced expectation of judicial leniency. Exemplary costs are inevitable, and even necessary, in order to ensure that in litigation, as in the law which is practised in our country, there is no premium on the truth.

14. Courts across the legal system - this Court not being an exception - are choked with litigation. Frivolous and groundless filings constitute a serious menace to the administration of justice. They consume time and clog the infrastructure. Productive resources which should be deployed in the handling of genuine causes are dissipated in attending to cases filed only to benefit from delay, by prolonging dead issues and pursuing worthless causes. No litigant can have a vested interest in delay. Unfortunately, as the present case exemplifies, the process of dispensing justice is misused by the unscrupulous to the detriment of the legitimate. The present case is an illustration of how a simple issue has occupied the time of the courts and of how successive applications have been filed to prolong the inevitable. The person in whose favour the balance of justice lies has in the process been left in the lurch by repeated attempts to revive a stale issue. This tendency can be curbed only if courts across the system adopt an institutional approach which penalizes such behavior. Liberal access to justice does not mean access to chaos and indiscipline. A strong message must be conveyed that courts of justice will not be allowed to be disrupted by litigative strategies designed to profit from the delays of the law. Unless remedial action is taken by all courts here and now our society will breed a legal culture based on evasion instead of abidance. It is the duty of every court to firmly deal with such situations. The imposition of exemplary costs is a necessary instrument which has to be deployed to weed out, as well as to prevent the filing of frivolous cases. It is only then that the courts can set apart time to resolve genuine causes and answer the concerns of those who are in need of justice. Imposition of real time costs is also necessary to ensure that access to courts is available to citizens with genuine grievances. Otherwise, the doors would be shut to legitimate causes simply by the weight of undeserving cases which flood the system. Such a situation cannot be allowed to come to pass. Hence it is not merely a matter of discretion but a duty and obligation cast upon all courts to ensure that the legal

system is not exploited by those who use the forms of the law to defeat or delay justice. We commend all courts to deal with frivolous filings in the same manner."

24. In the backdrop of legal position enunciated in the judgments referred to above, considering the conduct of the petitioner, we find this to be a fit case in which the petitioner needs to be saddled with appropriate costs for indulging in deceitful acts and misleading the authorities and the courts.

25. In the light of above mentioned factual and legal aspects, we do not find any perversity in the reasoning of the scrutiny committee to warrant interference under writ jurisdiction. We are of the firm view that the petitioner has indulged in serious acts of manipulation and interpolation of the documents only to derive undue advantage. He has invoked writ jurisdiction without approaching the court with clean hands. He is not at all entitled for any relief warranting interference under Article 226 of the Constitution of India, much less any equitable relief. The instant petition is liable to be dismissed with costs.

26. The Civil Application no. 6912/ 2024 for production of documents is allowed.

27. The Writ Petition is dismissed with costs of Rs. 10,000/- (Rupees Ten Thousand) to be paid by the petitioner in the registry of this court, within three weeks, else shall be recovered as arrears of land revenue.

28. Rule is discharged.