



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

WRIT PETITION No.5812/2022

Narendra S/o Gopalrao Nadge, : **PETITIONER**
Aged 57 years, Occ. Service (Live Stock
Supervisor),
R/o Sarmaspura, Achalpur city,
Tahsil Achalpur, District Amravati

VS.

1. The Schedule Tribe, Certificate Scrutiny : **RESPONDENTS**
Committee, Amravati Division,
Amravati through it's Member
Secretary, Amravati, District – Amravati
2. Commissioner of Animal Husbandry,
Maharashtra State, Opposite Spicer
College, Aundh, Pune 411067

Ms. Sejal Lakhani, Adv. Mr. S.P. Bhandarkar, Advocate for the petitioner
Mr. S.V. Narale, AGP for Respondents

WITH

WRIT PETITION No.4811/2021

Vijay S/o Mahadevrao Nadge, : **PETITIONER**
Aged about 49 yrs. Occ. Service,
R/o Krushnakunj Vihar, Bhaktidham
Parisar, Chandur Bazar, Tah. Chandur
Bazar, Distt. Amravati 444 704

VS.

1. Joint Commissioner & Vice-Chairman, : **RESPONDENTS**
Scheduled Tribe Caste Certificate
Scrutiny Committee, B-Wing, 1st Floor,
Dr. Babasaheb Ambedkar Social Justice
Deptt., Camp Road, Amravati – 444606
2. Chief Executive Officer, Zilla Parishad,
Amravati

**CORAM: URMILA JOSHI PHALKE AND
NIVEDITA P. MEHTA, JJ.**

Date of pronouncing the judgment: 03.08.2026

3. The petitioners in Writ Petition No. 5812/2022 and Writ Petition No. 4811/2021 are cousin brothers of each other and belong to the same family. Brief facts of both these petitions are summarized as:

Writ Petition No. 5812 of 2022

4. The petitioner in Writ Petition No. 5812/2022 was serving as a Livestock Supervisor under Respondent no.2- Employer at Paratwada, District Amravati. His tribe claim for "Halbi" Scheduled Tribe was referred by Respondent no.2 to Respondent no.1- Scrutiny Committee for verification. By order dated 21.03.2005, the Scrutiny Committee invalidated the petitioner's claim holding that he does not belong to "Halbi" Scheduled Tribe.

5. Aggrieved thereby, the petitioner preferred Writ Petition No.3975 of 2009 challenging the order of invalidation. The said writ petition came to be dismissed by this Court on 18.09.2009 on the ground of delay and laches. Thereafter, the petitioner filed Misc. Civil Application (Review) No.1392 of 2009, which also came to be rejected by order dated 11.12.2009.

6. According to the petitioner, he belongs to the Nadge family descending from the common ancestor Harbhaji Nadge, whose genealogy has been placed on record. It is the petitioner's case that several of his paternal blood relatives, tracing their lineage to the said common ancestor, have subsequently been granted caste validity certificates recognizing them as belonging to "Halbi" Scheduled Tribe. It is pointed out that Mohan Nagorao Nadge, the grandson of the petitioner's real uncle, was granted a validity certificate on 30.08.2004. Thereafter,

Niwruti Shankarrao Nadge and Ramchandra Shankarrao Nadge, the great-grandsons of Hiranman, son of Harbhaji Nadge, succeeded in Writ Petition Nos.3063 of 2002 and 3064 of 2002, respectively, wherein this Court, by judgment dated 01.09.2015, quashed the orders of invalidation and directed issuance of validity certificates, which were accordingly issued on 28.10.2015 and 30.10.2015, respectively. Similarly, Atul Madhukarrao Nadge succeeded in Writ Petition No.3751 of 2003, which was allowed on 11.01.2016, and a validity certificate was issued to him on 08.03.2016. Likewise, Arun Madhukarrao Nadge succeeded in Writ Petition No.4588 of 2003, pursuant to which a validity certificate was issued in his favour on 11.07.2016.

7. Relying upon the aforesaid caste validity certificates issued in favour of his paternal blood relatives, the petitioner submitted an application dated 21.07.2016 before Respondent no.1 Committee requesting issuance of a caste validity certificate in his favour. Since no decision was taken on the said application, the petitioner approached this Court by filing Writ Petition No.1933 of 2017. By order dated 08.01.2020, this Court directed Respondent no.1 Committee to reconsider the petitioner's claim in the light of the validity certificates issued to his blood relatives and to decide the application dated 21.07.2016 within a period of one year.

8. During the pendency of the proceedings, Respondent no.2-Employer issued a communication dated 27.08.2020 declaring the petitioner surplus in view of the Government Resolution dated 21.12.2019. The petitioner challenged the said communication by filing Writ Petition No.2473 of 2020, wherein this Court, by order dated 07.10.2020, protected the petitioner's service. The said writ petition is stated to be pending.

9. Pursuant to the directions issued by this Court in Writ Petition No.1933 of 2017, respondent no.1 undertook reconsideration of the petitioner's claim and supplied the Police Vigilance Cell report to the petitioner. The Vigilance Cell relied principally upon two adverse entries, namely, an entry dated 01.11.1913 in the Dakhal Kharij Register pertaining to Pandurang Kisan recording the caste as "Sali", and another entry dated 05.04.1930 relating to Zhingu Kishanji recording the caste as "Koshti". The petitioner submitted his explanation on 16.02.2022, disputing the adverse effect of the said entries and also explaining the circumstances regarding the invalidation of the claim of his cousin Vijay Mahadeo Nadge and the earlier proceedings involving his son Rahul Nadge and daughter Kanchan Nadge.

10. Thereafter, Respondent no.1, by the impugned order dated 25.04.2022, once again invalidated the petitioner's claim for "Halbi"

Scheduled Tribe. Aggrieved thereby, the petitioner has filed the present writ petition challenging the legality and correctness of the said order.

Writ Petition No. 4811 of 2021

11. The petitioner in Writ Petition No. 4811/2021 was appointed as an Assistant Teacher on 08.11.1996 against a post reserved for the Scheduled Tribe category on the strength of a caste certificate dated 27.06.1990 issued by the Executive Magistrate, Chandur Bazar, District Amravati.

12. Pursuant to the Government Circular requiring verification of caste certificates, the petitioner's proposal for verification of his tribe claim was forwarded to respondent no.1–Scrutiny Committee. In support of his claim, the petitioner produced several pre-Constitution documents, including school records of his paternal uncles Gopal, Vitthal and Ganpat of the year 1929, as well as a mortgage deed of 1933 and an adoption deed of 1938 pertaining to his father, all recording the caste as "Halbi". The petitioner also relied upon the caste validity certificate issued in favour of his cousin brother Mohan Nadge along with an affidavit establishing their relationship.

13. It is the petitioner's case that instead of conducting an independent vigilance enquiry in his own case, the Vigilance Cell relied upon the enquiry conducted in the case of Gauri Mohan Nadge, daughter of his cousin brother, and supplied the said vigilance report to the

petitioner. According to the petitioner, such a course was contrary to the law laid down by the Hon'ble Supreme Court, as every tribe claim is required to be examined independently on its own facts. The petitioner submitted his explanation on 23.01.2018, disputing the adverse entries relied upon in the vigilance report, including entries showing the caste as "Koshti", "Bunkar" and "Sali", and reiterated that the oldest pre-Constitution documents of the years 1929, 1933 and 1938, consistently recording the caste as "Halbi", deserved greater evidentiary weight.

14. By the impugned order dated 28.08.2021, respondent no.1 invalidated the petitioner's claim for "Halbi" Scheduled Tribe. Aggrieved thereby, and apprehending coercive action affecting his service, the petitioner has filed the present writ petition challenging the legality and correctness of the order of invalidation and seeking consequential protection of service.

15. *Per Contra*, learned counsel appearing for the Respondent-Scrutiny Committee supported the impugned orders and submitted that the Committee has rightly invalidated the petitioners' tribe claims upon appreciation of the entire documentary evidence and the vigilance enquiry. It is submitted that though the petitioners relied upon certain pre-Constitution school records recording the caste as "Halbi", the authenticity of those documents could not be verified. During vigilance enquiry, it was found that the original school registers pertaining to the

relevant period had been torn and were unavailable for verification, as certified by the Headmaster of Nagar Parishad Primary Marathi School, Samraspura, Achalpur, by communication dated 03.02.2017. In such circumstances, the Committee rightly declined to place reliance upon those documents.

16. It is further submitted that the vigilance enquiry unearthed older pre-Constitution entries recording the caste of the petitioners' paternal relatives as "Koshti", "Sali" and "Bunkar". According to the respondent, these adverse entries, being of the years 1913, 1930/1931, 1955 and 1956, possess greater probative value and clearly establish that the petitioners belong to "Halbi-Koshti", which falls under the Special Backward Class category, and not to "Halbi" Scheduled Tribe. It is also contended that the petitioners' family had a comparatively advanced educational and social status since the pre-Independence period and that the petitioners failed to establish the customs, traditions and cultural traits associated with the Halbi Scheduled Tribe. According to the respondent, the petitioners are merely seeking to derive benefit on account of the similarity in nomenclature between "Halbi-Koshti" and "Halbi" Scheduled Tribe.

17. Insofar as Writ Petition No. 4811 of 2021 is concerned, it is additionally contended that the petitioner's nephew Rahul Nadge and niece Kanchan Nadge had earlier suffered orders invalidating their tribe

claims and, in Writ Petition Nos.1018 of 2014 and 1019 of 2014, had filed undertakings before this Court giving up their tribe claims in order to secure their educational interests. It is submitted that despite the said proceedings, the petitioner sought reconsideration of his own claim by filing Writ Petition No.1933 of 2017 without disclosing the aforesaid facts, thereby suppressing material facts and not approaching either the Committee or this Court with clean hands. On these grounds, it is prayed that both the writ petitions be dismissed.

18. We have heard counsel for the respective parties at length. Perused the record and proceedings with the assistance of the learned Assistant Government Pleader and considered the relevant documents and citations relied on by the learned Counsel for the Petitioner.

19. At the outset, it is not in dispute that both the petitioners have placed on record several pre-Constitution documents consistently recording the caste as "Halbi". The documents, which include school admission extracts of the years 1929, 1932 and 1942, as well as the mortgage deed of the year 1933 and adoption deed of the year 1938, constitute the oldest documentary evidence available on record. It is well settled that pre-Constitution documents carry the highest probative value while adjudicating a tribe claim, there being little or no incentive for fabrication at the relevant point of time. The Committee, however, has discarded these documents only on the ground that the original school

registers were found torn and, therefore, could not be verified by the Vigilance Cell. In our view, such an approach cannot be sustained. Merely because the original registers were stated to be unavailable due to deterioration of record, the documentary evidence produced by the petitioners could not have been discarded outright, particularly when there is no finding that the extracts themselves are fabricated or forged. The inability of the authorities to preserve old records cannot, by itself, deprive the petitioners of the evidentiary value attached to such pre-Constitution documents.

20. Apart from the aforesaid documentary evidence, the petitioners have also relied upon five caste validity certificates issued in favour of their paternal blood relatives, namely Mohan Nagorao Nadge, Niwruti Shankarrao Nadge, Ramchandra Shankarrao Nadge, Atul Madhukarrao Nadge and Arun Madhukarrao Nadge, all recognising them as belonging to "Halbi" Scheduled Tribe. The genealogy establishing the relationship of the petitioners with the validity holders has not been seriously disputed. It is equally not the case of the Committee that the said validity certificates were obtained by fraud or misrepresentation or that they have been cancelled in accordance with law. In view of the settled legal position, the validity certificates issued in favour of close paternal blood relatives constitute a strong piece of evidence which could not have been lightly ignored while determining the petitioners' tribe claims.

21. The principal basis on which the Committee rejected the claims is the existence of certain contra entries recording the caste as "Sali", "Koshti", "Bunkar" or "Halbi-Koshti". In our opinion, the petitioners have furnished a plausible and satisfactory explanation for such adverse entries. In Writ Petition No.5812 of 2022, the petitioner specifically explained that the entry pertaining to Pandurang Kishan, showing the date of admission as 01.11.1913, could not possibly relate to his cousin uncle whose school leaving certificate records the date of birth as 01.12.1919 and admission on 01.03.1930. The petitioner further pointed out that the person by the name of Zhingu Kishan is neither reflected in the genealogy nor shown to be a blood relative. Thus, the very foundation for relying upon those entries was seriously disputed. We find substance in the explanation tendered by the petitioner, particularly when the Committee has not produced any cogent material to establish the relationship of the said persons with the petitioner's family.

22. Similarly, in Writ Petition No.4811 of 2021, the petitioner consistently objected to the reliance placed upon the vigilance report prepared in the case of another claimant. The petitioner specifically denied any relationship with Girdhari Ratan and pointed out that several documents relied upon by the Vigilance Cell did not pertain to his branch of the family. He also demonstrated factual inconsistencies in the vigilance material, including the recording of Shankar as the son of Maroti Harbaji

despite the admitted position that Maroti Harbaji died issueless, necessitating the execution of an adoption deed in the year 1938. The petitioner further pointed out discrepancies in the particulars of his father appearing in the vigilance material. These explanations have not been effectively dealt with by the Committee while recording the impugned findings. We are, therefore, in consonance with the explanation offered by the petitioner and find that the adverse entries relied upon by the Committee do not possess such evidentiary value as to outweigh the consistent pre-Constitution documentary evidence and the validity certificates issued in favour of the petitioners' paternal blood relatives.

23. The Committee has also rejected the tribe claims on the ground that the petitioners failed to establish the affinity and ethnological traits of the “Halbi” Scheduled Tribe. Such reasoning is equally unsustainable. The Hon'ble Supreme Court in *Anand v. Committee for Scrutiny and Verification of Tribe Claims, (2012) 1 SCC 113*, has categorically held that the affinity test is not a litmus test for deciding a tribe claim and assumes only a corroborative role. Where reliable documentary evidence, particularly pre-Constitution documents, is available on record, the claim cannot be rejected solely on the ground that the claimant does not satisfy the affinity test. Therefore, the Committee committed an error in assigning undue importance to the affinity test while overlooking the documentary evidence of high probative value.

24. Viewed cumulatively, the consistent pre-Constitution documentary evidence, coupled with the five validity certificates issued in favour of the petitioners' paternal blood relatives and the satisfactory explanation furnished in respect of the alleged contra entries, clearly outweigh the adverse material relied upon by the Committee. The impugned orders, therefore, suffer from non-consideration of material evidence and misapplication of the settled principles governing adjudication of Scheduled Tribe claims and cannot be sustained. Consequently, the petitioners are entitled to succeed.

25. Having regard to the foregoing discussion, we are satisfied that the petitioners have successfully established their claim of belonging to "Halbi" Scheduled Tribe. The orders dated 25.04.2022 and 28.08.2021 passed by Respondent no.1- Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati, in Case No. DD/TCSC/AMT/NGN/III-384/02-03 and Case No. JC&VC/TCSC/AMT/5-ST/2013/11593 respectively, invalidating the petitioners' tribe claim are hereby quashed and set aside. Respondent No.1 - Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati, shall issue a validity certificate in favour of the petitioners certifying them as belonging to "Halbi" Scheduled Tribe, within a period of six weeks from the date of receipt of a copy of this judgment. Accordingly, the present Writ petitions are **allowed**.

Rule shall be made absolute in aforesaid terms. No order as to costs.

(NIVEDITA P MEHTA,J.)

(URMILA JOSHI PHALKE, J.)

MP Deshpande