

(2025) 08 SC CK 0241

In the Supreme Court Of India

Case No : Civil Appeal No.10531 Of 2025 (Arising Out Of Special Leave Petition (Civil) No. 27410 Of 2024)

Yogesh Madhav Makalwad

APPELLANT

Vs

State Of Maharashtra & Ors

RESPONDENT

Date of Decision : 12-08-2025

Acts Referred:

Citation : (2025) 08 SC CK 0241

Hon'ble Judges : B.R.Gavai, CJI; Satish Chandra Sharma, J; K. Vinod Chandran, J

Bench : Full Bench

Advocate : Uday Bhaskar Dubey, Kailas More, Nirmala D. Borade, Nikita Singh, Meena Sehrawat, Akash Yadav, Kaustubh Dube, Varad Kilor, Siddharth Dharmadhikari, Aaditya Aniruddha Pande Shirang B. Varma

Final Decision : Allowed

Judgement

B.R. Gavai, CJI.

FACTUAL ASPECT

1. Leave granted.

2. The present appeal challenges the judgment and final order dated 23rd July, 2024 passed by the learned Division Bench of the High Court of Judicature at Bombay, Bench at Aurangabad "the High Court" in Writ Petition No. 8702 of 2019. Vide the impugned judgment and final order, the High Court dismissed the petition challenging the order dated 24th June, 2019 passed by the Scheduled Tribe Certificate Scrutiny Committee, Aurangabad Division, Aurangabad "the Scrutiny Committee" confiscating and invalidating the Caste Certificate of the appellant and his father for the Scheduled Tribe - Koli Mahadev.

3. The facts, in brief, leading to the filing of the present appeal are as under:

3.1. Way back in the year 1943, the appellant's grandfather, namely, Jalba Malba Makalwad, was admitted in Zilla Parishad Primary School, Narangal, Degloor

Taluka, Nanded District wherein his caste was mentioned as Koli Mahadev.

3.2. Thereafter, in the years 1975 and 1979, appellant's uncle, namely, Vyankat Jalba Makalwad and appellant's father, namely, Madhav Jalba Makalwad, were admitted in Zilla Parishad Primary School, Kabirwadi, Degloor Taluka, Nanded District. In the admission register, their caste was mentioned as Koli Mahadev.

3.3. In the year 2005, the appellant was admitted in the Janta Vidya Mandir Primary School, Murud Taluka, Latur District wherein his caste was also mentioned as Koli Mahadev.

3.4. On 21st May 2010, the State of Maharashtra issued a circular being Government Circular No. A.Ja.U.2009/Pra.No.61/Ka-1413 thereby announcing the implementation of certain schemes in villages/colonies having a Scheduled Caste and Scheduled Tribe population exceeding 40%. On the basis of the 2001 census, appellant's village is included in the list of eligible villages under the said circular.

3.5. It appears that as on 18th June, 2010, the appellant's school leaving register also mentions him belonging to the caste Koli Mahadev.

3.6. In 2019, the appellant appeared for the National Eligibility-cum-Entrance Test (NEET) UG examination, wherein he scored 334 marks out of 720 marks thereby, becoming eligible for admission in a Medical College on the strength of his Caste Certificate. However, the Caste Certificate of the appellant had not been validated till then. The appellant, therefore, filed a writ petition being W.P. No. 8702 of 2019 before the High Court seeking direction for scrutinizing his Caste Certificate at the earliest so that he can be admitted in a Medical College.

3.7. During the pendency of the writ petition, the Scrutiny Committee vide order dated 24th June, 2019 invalidated the claim of the appellant and his father disbelieving various documents placed on record such as the School Admission and Leaving Extract of the appellant's grandfather from the year 1943, the school records of the appellant's father as well as the school records of appellant's uncle. Resultantly, the Scheduled Tribe Certificates of the appellant and his father were cancelled and impounded by the Scrutiny Committee.

3.8. Aggrieved thereby, the appellant amended his writ petition additionally challenging the order dated 24th June, 2019 passed by the Scrutiny Committee.

3.9. Vide impugned judgment and final order, the learned Division Bench of the High Court dismissed the petition stating that the school records of the relatives of the appellant are neither reliable nor competitive to the claim of the appellant and therefore, upheld the order dated 24th June, 2019 passed by the Scrutiny Committee confiscating and invalidating the caste claim of the appellant.

3.10. Being aggrieved thereby, a special leave petition was filed by the appellant in which notice was issued vide order dated 27th January 2025.

SUBMISSIONS

4. We have heard Shri Uday Bhaskar Dube, learned senior counsel appearing on behalf of the appellant as well as Shri Shrirang B. Varma and Shri Varad Kilor, learned counsel appearing for the respondent-State.

5. Shri Uday Bhaskar Dube, learned senior counsel appearing on behalf of the appellant submitted that the Scrutiny Committee as well as the High Court has grossly erred in dismissing the claim of the appellant. It is submitted that the School Admission and Leaving Extract of the appellant's grandfather, which was recorded on 10th October, 1943 clearly indicates the caste as Koli Mahadev. It is submitted that the same being a pre-Independence document will have a greater probative value and the Scrutiny Committee as well as the High Court ought to have taken the same into consideration and held the appellant's caste claim of belonging to Koli Mahadev Tribe valid.

6. Per contra, Shri Shrirang B. Varma and Shri Varad Kilor, learned counsel appearing for the respondent-State have vehemently opposed the appeal. They submitted that the so-called document of 1943 is not free from doubt as the opinion on handwriting with regard to interpolation is inconclusive. It is further submitted that the appellant has failed the affinity test. The appellant has not been in a position to depose before the Scrutiny Committee with regard to the customs and traditions followed by the Koli Mahadev Tribe, as such, on this ground also the claim has been rightly invalidated.

ANALYSIS

7. At the outset, it would be apposite to refer to the judgment of this Court in the case of *Anand v. Committee for Scrutiny & Verification of Tribe Claims and Others* (2012) 1 SCC 113. It would be relevant to refer paragraph 22 of the said judgment which reads thus:

"22. It is manifest from the aforeextracted paragraph that the genuineness of a caste claim has to be considered not only on a thorough examination of the documents submitted in support of the claim but also on the affinity test, which would include the anthropological and ethnological traits, etc., of the applicant. However, it is neither feasible nor desirable to lay down an absolute rule, which could be applied mechanically to examine a caste claim. Nevertheless, we feel that the following broad parameters could be kept in view while dealing with a caste claim:

(i) While dealing with documentary evidence, greater reliance may be placed on pre-Independence documents because they furnish a higher degree of probative value to the declaration of status of a caste, as compared to post-Independence documents. In case the applicant is the first generation ever to attend school, the availability of any documentary evidence becomes difficult, but that ipso facto does not call for the rejection of his claim. In fact, the mere fact that he is the first generation ever to attend school, some benefit of doubt in favour of the applicant may be given. Needless to add that in the event of a doubt on the credibility of a document, its veracity has to be tested on the basis of oral

evidence, for which an opportunity has to be afforded to the applicant;

(ii) While applying the affinity test, which focuses on the ethnological connections with the Scheduled Tribe, a cautious approach has to be adopted. A few decades ago, when the tribes were somewhat immune to the cultural development happening around them, the affinity test could serve as a determinative factor. However, with the migrations, modernisation and contact with other communities, these communities tend to develop and adopt new traits which may not essentially match with the traditional characteristics of the tribe. Hence, the affinity test may not be regarded as a litmus test for establishing the link of the applicant with a Scheduled Tribe. Nevertheless, the claim by an applicant that he is a part of a Scheduled Tribe and is entitled to the benefit extended to that tribe, cannot per se be disregarded on the ground that his present traits do not match his tribe's peculiar anthropological and ethnological traits, deity, rituals, customs, mode of marriage, death ceremonies, method of burial of dead bodies, etc. Thus, the affinity test may be used to corroborate the documentary evidence and should not be the sole criteria to reject a claim."

[emphasis supplied]

8. It can, thus, be seen that this Court held that while dealing with documentary evidence, greater reliance may be placed on pre-Independence documents because they furnish a higher degree of probative value to the declaration of status of a caste, as compared to post-Independence documents. Insofar as the applicability of the affinity test is concerned, the Court observed that a cautious approach has to be adopted. It has been observed that a few decades ago, when the tribes were somewhat immune to the cultural development happening around them, the affinity test could serve as a determinative factor. However, with the migrations, modernisation and contact with other communities, these communities tend to develop and adopt new traits which may not essentially match with the traditional characteristics of the tribe. It is, therefore, held that the affinity test may not be regarded as a litmus test for establishing the link of the applicant with a Scheduled Tribe. It has been held that merely because the applicant does not match the tribe's peculiar anthropological and ethnological traits, deity, rituals, customs, mode of marriage, death ceremonies, method of burial of dead bodies etc., it cannot be solely taken into consideration for rejecting the claim of belonging to the Scheduled Tribe.

9. In the present case, the appellant has placed on record the School Admission and Leaving Extract in respect of his grandfather namely, Jalba Malba Makalwad, recorded on 10th October, 1943 which indicates his caste as Koli Mahadev. Though the report of the handwriting expert is inconclusive as to whether there is interpolation or not, we have examined the said document with a magnifying glass.

10. On the perusal of the entry, it is clear to us that the words Koli Mahadev written in the entry are in the same ink and in the same handwriting. Therefore,

we find that there could be no scope for interpolation in the said entry. It is further to be noted that on the basis of this pre-Independence entry, the school records of the appellant's father, Madhav Jalba Makalwad and his uncle, Vyankat Jalba Makalwad also show the caste as Koli Mahadev.

11. One of the reasons given by the High Court in not accepting the caste claim of the appellant is that the same is not supported by any validated document. We are informed that it is appellant's father and the appellant who have applied for the first time for validation of their Caste Certificate. The Scrutiny Committee has invalidated the claim of both, the appellant as well as his father.

12. In view of the pre-Independence document which certifies that the appellant's grandfather, Jalba Malba Makalwad, to be belonging to Koli Mahadev Tribe, we are of the considered opinion that a greater probative value ought to have been given to the said document. However, on the basis of presumptions and assumptions, the said document has been disbelieved.

13. Insofar as the affinity test is concerned, as held by this Court in Anand (supra), with the change in times, migration and modernisation, the joining of people from the tribal population in the mainstream of the society, the fact that they are not in a position to recollect the anthropological and ethnological traits, deity, rituals, customs, mode of marriage, death ceremonies, method of burial of dead bodies, etc., of their tribe cannot be solely a ground ipso facto to deny the said claim.

14. We may also gainfully refer to a recent judgment of this Court rendered by the three learned Judges in the case of Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti v. State of Maharashtra and Others (2023) 16 SCC 415 which reiterated the position that the affinity test cannot be conclusive either way. It has been held that when the affinity test is conducted by the Vigilance Cell, the result of the test along with all other material on record having probative value will have to be taken into consideration by the Scrutiny Committee for deciding the caste validity claim. It has been reiterated that the affinity test is not a litmus test to decide the caste claim and is not an essential part in the process of determination of correctness of a caste or tribe claim in every case.

15. Apart from that, the view taken in Anand (supra) that pre-Independence documents will have a greater probative value while considering the claim of the applicant has been followed by this Court as well as various High Courts in catena of decisions.

CONCLUSION

16. In that view of the matter, we are of the considered view that the order of the Scrutiny Committee invalidating the appellant's caste claim as well as the impugned judgment and final order of the High Court upholding the same is not sustainable in law.

17. In the result, we pass the following order:

- i. The appeal is allowed;
 - ii. The impugned judgment and final order dated 23rd July, 2024 passed by the Division Bench of the High Court is quashed and set aside; and
 - iii. It is held that the appellant belongs to the Koli Mahadev Tribe. The Scrutiny Committee is directed to issue Caste Validity Certificate to the appellant within a period of six weeks from the date of this judgment.
18. Pending application(s), if any, shall stand disposed of.