



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 6947 OF 2023

Pandhari Haribhau Sinhe,
Aged about 60 years, Occ. Cultivator,
R/o. Lohi, Tah. Darwha,
District - Yavatmal

...PETITIONER

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Social Justice and Special Assistance
Department, Mantralaya,
Mumbai – 32
2. The District Caste Certificate
Scrutiny Committee, Akola, through
its Research Officer and Member
Secretary, Administrative Building,
2nd Floor, Collectorate Office, Akola
3. Sanjay Rambhau Shinde,
Aged : Adult, Occu. Cultivator,
R/o. Hatola, Tah. Barshitakli,
District – Akola
Presently R/o. Village Lohi,
Tah. Darwha, District-Yavatmal

...RESPONDENTS

Shri F.T. Mirza, Senior Advocate a/w Shri P.S. Thakur, Advocate for petitioner
Shri H.D. Futane, AGP for respondent/State
Shri S.R. Narnaware and Shri S.D. Chande, Advocate for respondent No. 3

CORAM : **SMT. M.S. JAWALKAR AND**
NANDESH S. DESHPANDE, JJ.

RESERVED ON : 30.03.2026
PRONOUNCED ON : 06.05.2026

JUDGMENT (PER : NANDESH S. DESHPANDE, J.)

Heard.

2. **Rule.** Rule is made returnable forthwith. Heard finally with the consent of parties.

3. The petitioner has filed this writ petition challenging order dated 07.09.2023 passed by Respondent No. 2, the District Caste Certificate Scrutiny Committee, Akola (for short 'the Committee') - whereby the caste claim of Respondent No. 3 as belonging to "Kunbi" caste under the Other Backward Category was held to be valid.

4. The brief facts of the case are that the post of Sarpanch of Village Panchayat Lohi, Tah. Darwha, Dist. Yavatmal was reserved for OBC category in the general elections declared in November 2022. Both the petitioner and Respondent No. 3 filed nomination papers for the said post. Respondent No. 3 produced a Caste

Certificate dated 17.11.2022 issued by the Sub Divisional Officer, Murtizapur, claiming to belong to "Kunbi" OBC caste. The petitioner raised an objection before the Returning Officer, however, since the Returning Officer had no jurisdiction to decide the caste claim, Respondent No. 3 was declared elected as Sarpanch on 28.12.2022. The petitioner thereafter made a complaint dated 20.06.2023 before the Committee for invalidation of the caste claim of Respondent No. 3. In support of his complaint, the petitioner placed the following documents, all of which consistently show caste as "Maratha":

Sr.No.	Document Type	Name	Caste Recorded
1.	School Register Extract	Sanjay Rambhau Shinde	Maratha
2.	School Register Extract	Rambhau Vithu	Maratha
3.	Service Book (First Page)	Rambhau Vithoba Shinde	Maratha
4.	Kotwal Book Extract	Vithu Krushnaji Maratha (Grandfather of respondent No.3, i.e. Sanjay Rambhau Shinde)	Maratha
5.	School Leaving Certificate dated 15.12.2010	Sanjay Rambhau Shinde	Maratha

5. Before the Committee, Respondent No. 3 filed a Kotwal Book extract of Vithu Sabraji Kunbi, a totally different person and not the

grandfather of Respondent No. 3. The real grandfather is Vithu Krushnaji Maratha. The Vigilance Cell, after independent field enquiry and recording of statements of witnesses, clearly reported that the grandfather of Respondent No. 3 is Vithoba Krushnaji and not Vithu Sabraji. Despite this, the Committee rejected the complaint of the petitioner and validated the caste claim of Respondent No. 3 vide impugned order dated 07.09.2023.

6. We have heard Shri F.T. Mirza, learned senior counsel a/w Shri P.S. Thakur, learned counsel for the petitioner, Shri H.D. Futane, Assistant Government Pleader for respondent Nos. 1 & 2/State, and Shri S.R. Narnaware and Shri S.D. Chande, learned counsel for respondent no.3.

7. Learned counsel for the petitioner submits that the impugned order is illegal, perverse and contrary to record. It is submitted that all documents consistently show caste as "Maratha" and the Committee erred in relying upon the Kotwal Book of Vithu Sabraji Kunbi without recording any finding as to his relationship with Respondent No. 3, particularly when the Kotwal Book of the real grandfather Vithu Krushnaji Maratha was on record and was never

denied. He submitted that the Committee further erred in rejecting the Vigilance Cell report, which independently established Vithoba Krushnaji as the grandfather. Respondent No. 3 never deposed before the Committee as to which documents he produced before the Sub-Divisional Officer, and fraudulently obtained the caste certificate by suppressing all material documents, thereby cheating the authorities and illegally denying the petitioner his statutory right to contest the election under the OBC reserved category.

8. In rejoinder, it is further submitted that the death certificates relied upon by the Committee are suspicious and manufactured documents. The death certificate of Rambhau Vithoba Shinde, dated 16.11.2022, the earliest certificate does not mention the grandfather's name at all. Astonishingly, the same Village Panchayat issued a second death certificate dated 19.11.2022, just three days later, deliberately introducing the name "Vithoba Sabraji Shinde" as grandfather. The death certificate of Rajaram Vithoba Shinde, dated 18.11.2022, issued by Village Panchayat Hatola, similarly shows grandfather as "Vithoba Sabraji Shinde". All three certificates were issued within three days in November 2022, coinciding with the obtaining of caste certificate dated 17.11.2022, rendering their

authenticity highly doubtful. It is further submitted that the Committee's claim that the Vigilance Cell report states "Krushnaji and Sabraji are one and the same" is a misrepresentation, as the report clearly records the grandfather's name as Vithoba Zingraji @ Krushnaji, not Sabraji. Respondent No. 3 fraudulently exploited the similarity between Vithu Krushnaji Maratha and Vithu Sabraji Kunbi to obtain the caste certificate.

9. Per contra, learned Assistant Government Pleader for respondent/State and learned Counsel for respondent No. 3 filed their respective replies and supported the impugned order.

10. On behalf of Respondent No. 2, it is submitted that both parties were given due opportunity and the Committee considered all documents before passing the impugned order. Respondent No. 3 filed two pre-constitutional documents (i) Kotwal Book Extract of Vithu Sabraji Kunbi dated 09.01.1929 and (ii) Perepatrak of Tehsil Office, Moje Hatola, Dist. Akola of 1935-36 in favour of Vithoba Sabraji Kunbi, both being prior to 1967, and hence treated as conclusive proof. The petitioner's documents, including the School Leaving Certificate, School Register and Service Book of father

Rambhau Vithaji Shinde dated 08.05.1951, showing caste as "Maratha", pertain to a recent period and were rightly rejected as conclusive proof.

11. It is submitted that the Committee specifically inquired into the fraud allegation and found it unsustainable. As regards identity of the grandfather, the death certificate of Rajaram Vithoba Shinde, dated 18.11.2022 and the original Dakhal Kharij record both established the grandfather as Vithu Sabraji. The caste validity certificate of Namdeo Anandrao Shinde, dated 15.04.2005, was not considered as the petitioner failed to establish his relationship with Respondent No. 3. The Vigilance Cell report was rightly rejected as witnesses gave hearsay evidence about a different person, Ramrao Vitthal, as established from the original Dakhal Kharij, which at Sr. No. 409 shows Rambhau Vithu, father Vithu Krushnaji Marathe, and at Sr. No. 410 shows Ramrao Vitthal, father Vitthal Zingraji Maratha, two different persons in the same village. Reliance is placed on *Kawarsingh Kisansingh Bainade v State of Maharashtra, 2008 SCC OnLine Bom 176*, wherein this Court held that the Vigilance Cell report has only persuasive value and is not binding on the Committee if unsatisfactory.

12. Learned counsel for respondent no. 3, submits that he is the original resident of Hatola, Tah. Barshitakali, Dist. Akola and his grandfather is Vithu Sabraji Kunbi. His father Rambhau Vithoba Shinde was a primary teacher posted at Lohi, ZP Yavatmal, hence resided there, though original family roots are from Hatola. He submitted family tree on affidavit before the Collector on 17.11.2022 and before the Committee on 10.08.2023. He filed the Kotwal Book extract dated 09.01.1929 and Perepatrak of 1935-36 and 1938-39 in respect of Ramchandra Sabraji, Vithu Sabraji and Eknath Sabraji Kunbi all pre-independence documents of highest evidentiary value. The service book of his father also demonstrates they belong to "Kunbi" caste. The caste certificate was rightly issued by the Sub Divisional Officer after going through all documents. Caste certificates and validity certificates have been issued in favour of blood relatives cousin sister Vijaya Sheshrao Kshirsagar dated 09.02.2004 and cousin brother's son Namdeo Anandrao Shinde dated 15.04.2005. The Vigilance Cell report itself found respondent No. 3 to be a blood relative of Zingraji Kunbi, Sabraji @ Krushnaji Zingraji and other Kunbi community members, and Sabraji @ Krushnaji are one and the same person as per the affidavit filed by respondent No. 3. Thus, the petition is motivated

purely by personal grudge respondent No. 3 won the election by 200 votes and the impugned order being well-reasoned deserves no interference.

13. The learned Counsel for the respondent No.3 in support of his case relies upon the following citations :

1. *Apex Court Judgment dated 08/11/2012 in the case of Ayaaubkhan Noorkhan Pathan Vs. The State of Maharashtra, and Others.*
2. *Judgment dated 29/08/2024 in Writ Petition No.3927/2023 delivered by this Hon'ble Court in the case of Akhil Bhartiya Banjara Sena through its General Secretary Vs. The State of Maharashtra, and Others.*
3. *Judgment dated 24/11/2025 in Writ Petition No.5331/2024 delivered by this Court in the case of Jitendra S/o. Wasudeo Musaddiwar Vs. The District Caste Certificate Scrutiny Committee, Chandrapur, and Another.*
4. *Apex Court Judgment dated 04/04/2024 in the case of Navneet Kaur Harbhajansingh Kundles @ Navneet Kaur Ravi Rana Vs. State of Maharashtra, And Others.*

5. *Judgment dated 26/07/2021 in Writ Petition No.472/2020 delivered by this Court in the case of Ishwar S/o. Naga Bondalwa, and another Vs. The District Caste Certificate Scrutiny Committee, Gadchiroli, And Others.*
6. *Judgment dated 03/05/2023 in Writ Petition No.5364/2023 delivered by Principal bench of this Hon'ble Court in the case of Rakesh Bhimashankar Umbarje, and Others Vs. The State of Maharashtra, and another.*
7. *Judgment dated 22/02/2024 in Writ Petition No.1224/2024 delivered by this Court in the case of Sameer Hariram Shendre Vs. The Scheduled Tribe Caste Certificate Scrutiny Committee, Gondia.*
8. *Judgment dated 01/11/2023 in Writ Petition No.8822/2022 delivered by Principal bench of this Court in the case of Bharat Nagu Garud Vs. State of Maharashtra, and Others.*
9. *Order dated 23/04/2024 in Civil Application (CAW) No.185/2024 in Writ Petition No.6407/2023 passed by this Court in the case of Shashant S/o. Giridhar Nandanwar Vs. State of Maharashtra, and Others.*

14. We have carefully considered the submissions of learned counsel for the petitioner, the reply of learned Assistant

Government Pleader for respondent No. 2, learned counsel for Respondent No. 3, and have perused the documents on record.

15. At the outside, the learned counsel for the respondent No. 3, i.e., the person whose caste certificate has been upheld, has raised a preliminary objection regarding the locus of the petitioner in filing the present petition. It is his submission that the present petitioner has no locus either to file the complaint before the Scrutiny Committee or to file the present petition. In his submission the petitioner is not a person aggrieved and therefore cannot maintain the petition before this Court.

16. Learned counsel for respondent No.3 relied on a judgment of the Hon'ble Apex Court in the case of *Ayaaubkhan Noorkhan Pathan vs. The State of Maharashtra and others in Civil Appeal No. 7728/2012*, and more particularly, paragraph No. 7 thereof. He submits that the Hon'ble Apex Court in the said judgment has clearly observed that a stranger cannot be permitted to meddle in any proceedings unless he satisfies the authority/Court that he falls within the category of aggrieved person. He further submits that in the same judgment the Hon'ble Apex Court has stated that a legal

right means an entitlement arising out of legal rules. Thus, it is the submission of the learned counsel for the petitioner that the petitioner is neither an aggrieved person nor there is any legal right accrued to him.

17. In rebuttal, as has been rightly pointed out by the learned counsel for the petitioner, that Section 30 of the Maharashtra Village Panchayat Act provides for election of Sarpanch. Subsection 4 thereof contemplates that there shall be a reservation in the offices of Sarpanch in the Panchayats for the members belonging to the Scheduled Castes, the Scheduled Tribes, and the category of Backward class of citizens and women. Clauses (a), (b) and (c) of the said subsection postulate the modality for such reservation.

18. Shri Mirza, the learned senior counsel for the petitioner, also has rightly placed reliance on Section 30 – 1A of the said Act in support of his submission. The said section contemplates that a person contesting election for the reserved office of Sarpanch has to submit a caste certificate and a validity certificate. Thus, a conjunctive reading of both these sections would reveal that a person to be holding office of a Sarpanch, which is reserved for

members belonging to the Schedule Castes and the Scheduled Tribes or the category of backward class, has to submit a caste certificate or a validity certificate in support of his claim. As a sequel, without such caste certificate or a validity certificate, a person cannot hold such office which is reserved for such class of person.

19. It is an admitted position on record that the petitioner herein contested the election for the post of Sarpanch in the general elections held in November 2022. It is also seen that the post of Sarpanch was kept reserved for the category of OBC. It therefore follows that the person holding the office of Sarpanch has to be a person belonging to said category, that is OBC. Thus, it follows that due to the election of the respondent No. 3 on the post of Sarpanch, the legal right of the petitioner was violated. Thus, he is a person aggrieved as due to the election of the respondent No. 3, he could not get elected or hold the office of Sarpanch. We therefore reject the preliminary objection of the respondent No. 3.

20. As can further be seen from the record and more particularly the impugned order, the entire crux of the claim of the petitioner

for the caste certificate is on Kotwal Book Extract of Mouja Hatola, Tah. Barshitakli, District Akola. The said extract shows that the grandfather of the petitioner was Vithu Sabraji and his caste is shown as Kunbi which falls within OBC. We have perused the said documents. In addition to this, the petitioner lays his claim on the validity certificate issued to one Namdev Anandrao Shinde but perusal of the family tree would show that there is no person named 'Namdev Anandrao', the person is named as 'Namdev Rajaram' and the validity is issued to 'Namdev Anandrao'. Thus it cannot be said that the said person is a relative of the respondent No.3.

21. As can be seen from the impugned order of the Scrutiny Committee and more particularly the reasoning part thereof, it has only placed its reliance on the said Kotwal Extract of Vithu Sabraji and an affidavit filed by the respondent No. 3 that Sabraji and Krushnaji are one and the same person. However, it has conveniently ignored the vigilance cell report, which has unequivocally stated that they cannot reach to a definite conclusion on the basis of statements of witnesses. The perusal of the vigilance report would clearly reveal that the statements are nothing but

hearsay. In spite of this, the Scrutiny Committee has proceeded to grant to declare that the caste certificate issued to the respondent No. 3 is valid. This in our view cannot be supported.

22. Furthermore, as can be seen from the impugned order that, there is no discussion about various documents of the respondent No. 3 showing caste as Maratha. This is also one of the ground on which the order of this Scrutiny Committee cannot withstand the legal parameters. The reasoning for discarding the documents submitted by the petitioner, and more particularly the Kotwal Book of the year 1924, is very vague and there is no specific reason for rejecting the said document. Furthermore, the reasoning of the Scrutiny Committee that after enquiry from the Sub-Divisional Officer who issued the caste certificate, it was found that it was in fact issued by the said authority is also not correct. The fact that the caste certificate was issued by the office of the Sub-Divisional Officer cannot be a pointer to say that it is genuine and the Scrutiny Committee was expected to independently assess the document placed in support of the claim.

23. Furthermore, the Scrutiny Committee has recorded a finding that in the vigilance cell report, it was found that the applicant had four brothers, namely, Dnyaneshwar, Shankar, Rajaram and Onkar. The vigilance also recorded that the witnesses stated on the basis of hearsay evidence that the name of the grandfather of the Respondent No. 3 was Zingraji @ Krushnaji. The reasons for discarding the vigilance report, in our view is based on surmises and conjunctures and it can be said that the Scrutiny Committee was hellbent to declare the caste certificate of the respondent No. 3 as valid.

24. One more glaring fact which is against the respondent No.3 is that the name of the brothers of the petitioner, as stated by the witnesses, do not find a place in the family tree submitted by the petitioner himself. Furthermore, the reasoning with respect to the entry at Kotwal Book regarding the identity of the names as Rambhau Vithu and Ramrao is also fallacious and cannot be said to be legal and sustainable.

25. In view of that, we are of the considered opinion that the order of the Scrutiny Committee cannot be countenanced and is

liable to be quashed and set aside, it being perverse. We therefore pass the following order.

ORDER

- i) The writ petition is allowed.
- ii) It is hereby declared that respondent No. 3 does not belong to “Kunbi” OBC caste.
- iii) The impugned order dated 07.09.2023 issued by the respondent No.2, the District Caste Certificate Scrutiny Committee, Akola, in Case No. अर्ज क. 2022/00123633, is quashed and set aside.

26. Rule is made absolute in the above terms. No order as to costs.

(NANDESH S. DESHPANDE, J.) (SMT. M.S. JAWALKAR, J.)

After pronouncement of the judgment, Shri Narnaware, learned Counsel for the respondent No.3, prays for staying the

effect and operation of the said judgment, since according to him, the respondent No.3 is still holding the office as a Sarpanch.

The request is opposed by the learned Counsel for the petitioner stating that the term is already over.

However looking to the fact that the petition pertains to 2023, and looking to the fact that the respondent No.3 has made a statement that the said respondent is holding the office of Sarpanch, we stay the effect and operation of the judgment for further period of six weeks from today. However, it is made clear that after the expiration of six weeks, the stay would automatically cease to operate.

(NANDESH S. DESHPANDE, J.)

(SMT. M.S. JAWALKAR, J.)

Jayashree..