



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

WRIT PETITION No.8290 OF 2022

Ku. Kanchan Balkrushna Sonkusle,
Aged about 47 years,
Occupation : Service as Clerk with
respondent no.3 Bank,
R/o. At & Post: Warud,
Tq. Warud, District Amravati. : PETITIONER

...VERSUS...

1. State of Maharashtra
Through Secretary Ministry of Tribal
Welfare and Social Justice Department,
Mantralaya, Mumbai-32.
2. Schedule Tribe Caste Certificate
Scrutiny Committee, Amravati Division,
Amravati, through its
Deputy Director/Member Secretary.
3. Amravati District Central Co-operative
Bank Ltd., having its office at Camp Road,
Amravati 444603,
through its Chief Executive Officer (Admn.): RESPONDENTS

Mr. N.C. Phadnis, Advocate for Petitioner.
Mr. H.D. Futane, Assistant Government Pleader for Respondent No.1.
Mr. J.B. Kasat, Advocate for Respondent No.3.

CORAM : SMT. M.S. JAWALKAR AND
NANDESH S. DESHPANDE, JJ.
RESERVED ON : 21st APRIL, 2026.
PRONOUNCED ON : 07th MAY, 2026.

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

1. Rule. Rule made returnable forthwith. Heard finally

with the consent of parties.

2. The present petition prays for quashing of order passed by the respondent No.2 Scrutiny Committee bearing No.JC/TCSC/AMT/5-ST/2009/13848, dated 28/11/2022. It further prays for a declaration that the petitioner belongs to “Halba” Scheduled Tribe and is entitled to all benefits available to the said Tribe. It also prays for quashing and setting aside Rule 2 (f) of the Maharashtra Scheduled Tribes (Regulation of Issuance and Verification of) Certificate Rules, 2003 i.e. the definition of relative being unconstitutional.

3. The facts, as can be stated in the petition, are as under :

The petitioner was initially appointed as a probationary Clerk in Scheduled Tribe category on 8/9/2003 with the respondent No.3 on a condition that she should submit validity certificate in the stipulated period. But since it was not done, the respondent No.3 terminated the services of the petitioner vide order dated 25/11/2005 during pendency of verification process before the respondent No.2 Scrutiny Committee. This prompted the petitioner to challenge the said termination in Writ Petition No.1488/2006 before this Court. On 18/7/2006, this Court by passing an order quashed and set aside the termination order as a



result of which the petitioner was reinstated vide order dated 3/8/2006 and the petitioner till date continues with the service of the respondent No.3. Thereafter, the respondent No.2 Scrutiny Committee invalidated the claim of the petitioner vide order dated 21/12/2006 which was again challenged by her in Writ Petition No.780/2007. This Court vide order dated 27/8/2009 quashed and set aside the order of invalidation and remanded the matter back to the Scrutiny Committee to decide it in accordance with law. The Scrutiny Committee has again invalidated the order after remand vide impugned order on 28/11/2022 which is challenged in the present petition.

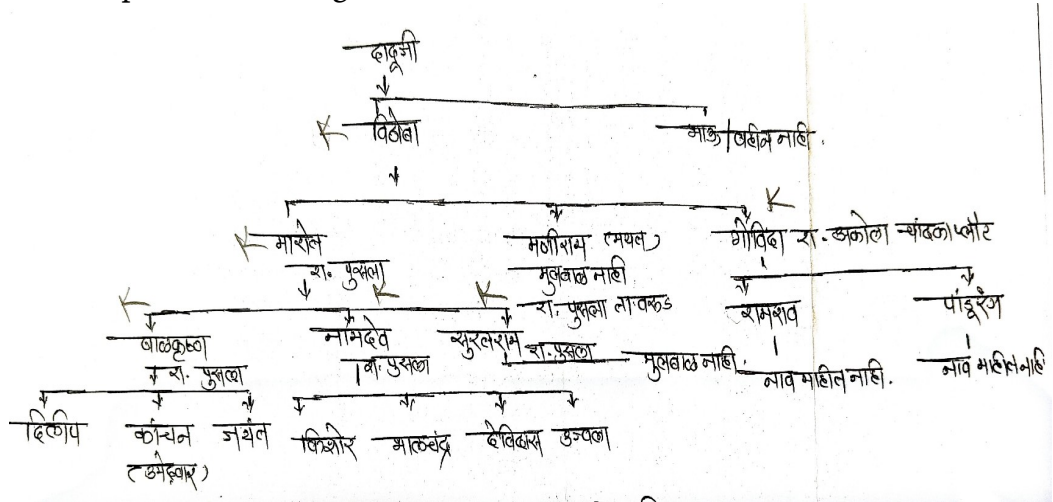
4. In support of her claim for validation, the petitioner submitted various documents to the Scrutiny Committee from the paternal side along with her caste certificate issued by the Competent Authority on 17/11/1989. However, without taking into consideration the documents, the caste claim is invalidated.

5. We have heard Mr. N.C. Phadnis, learned counsel for the petitioner, Mr. H.D. Futane, learned Assistant Government Pleader for respondent No.1 and Mr. J.B. Kasat, learned counsel for respondent No.3.

6. Mr. N.C. Phadnis, learned counsel for the petitioner by taking us through the impugned order states that as can be seen



from the order, documents dating back to the year 1936 and onwards were filed which clearly showed that the petitioner belonged to “Halbi” caste. He points us out the family tree filed by the petitioner along with her caste claim.



7. He further submits that the reasoning by the Scrutiny Committee regarding the oldest document which is of 28th June, 1954 is totally contrary and is in non-appreciation of the relevant cross-examination. He further points out that the contra entries of the caste “Koshti” were specifically denied by the petitioner in her reply to the Vigilance Cell, a fact which has not been appreciated by the Scrutiny Committee. He, therefore, prays for allowing the petition and validation of her caste claim.

8. Per contra, the learned Assistant Government Pleader for respondent No.1 opposes the contentions of the learned counsel for the petitioner. He points us out that enough opportunity was granted to the petitioner to cross-examine the Headmaster of the



concerned School which has issued the school leaving certificate to one Balkrushna Maruti Sonkusale, the father of the petitioner and nothing substantive in order to support the caste claim of the petitioner has come out from the record. He further submits that there are contra entries which are consistent showing the forefathers of the petitioner as “Koshti” and, therefore, the Scrutiny Committee was correct in invalidating the caste claim of the petitioner.

9. Mr. J.B. Kasat, learned counsel appearing for the respondent No.3 submits that appropriate order may be passed.

10. We have considered the contentions canvassed by the learned counsels for the respective parties and also gone through the original record of the Scrutiny Committee placed before us by the Assistant Government Pleader. At the outset, we note that even though a substantive challenge to the definition of ‘relative’ in the Maharashtra Scheduled Tribes (Regulation of Issuance and Verification of) Certificate Rules, 2003 and more particularly Rule 2(f) thereof, learned counsel for the petitioner has not chosen to adduce any argument on the same. We, therefore, are not making any findings regarding the same. The said Rule is challenged in the backdrop of the fact that the petitioner has filed validity certificates of relatives from the maternal side which has not been taken into



consideration by the Scrutiny Committee. The counsel for the petitioner has relied on judgment of Hon'ble Apex Court in **Rameshbhai Dabhai Naika Vs. State of Gujarat and others, (2012) 3 SCC 400.** In the said case there was an inter-caste marriage between a tribal and non-tribal and in the backdrop of that fact, the Hon'ble Apex Court came to a conclusion that in an inter-caste marriage or a marriage between a tribal and non-tribal there may be presumption that the child has the caste of the father. This presumption may be stronger in the case where in the inter-caste marriage or a marriage between a tribal and a non-tribal the husband who belongs to a forward caste is performed. But by no means the presumption is conclusive or irrebuttable and it is open to the child of such marriage to lead evidence to show that he or she was brought up by the mother who belonged to the Scheduled Caste or Scheduled Tribe. In the present case, however, it is an emphatic statement in the petition that the parents of the petitioner married in the same tribe. Same is the case in the judgment of **Writ Petition No.1737/2008 (Ku. Noopur d/o. Prashant Ambre Vs. The Schedule Tribe Caste Certificate Scrutiny Committee, Amravati and another)** where the petitioner therein belonged to a family headed by a single mother. In the **Writ Petition No.2893/2021 (Gauri d/o. Manda Ganthade Vs. The District Caste Scrutiny**



Committee, Yavatmal and another) the petitioner therein sought benefit on the basis of her caste of her mother in the back due to the fact that there was dispute between her parents after which she was brought up by her mother only. All these cases pertain to said factual aspect and, therefore, not helpful to the case of the petitioner herein.

11. However, the fact remains that the oldest document filed by the petitioner was an extract of school leaving register of one Balkrushna Maruti Sonkusale. We have perused the said school leaving register placed before us. In the Entry No.10 of the said extract, the caste “Koshti” is scratched and “Halba” is written and the date of admission in the school is 3/4/1944. In the remark column there is a remark that the change in caste column has been affected in pursuance to the order of the Education Officer bearing No.3648 on 2/5/1955. It is the contention of the petitioner that the entry in caste column is done in pursuance of the order of the competent authority i.e. Education Officer. The cross-examination of the Head-Mistress of the school, Mrs. Nandanwar would be relevant at this juncture. In the said cross-examination, she admits that the said person, namely, Balkrushna cannot himself carry out the change in the school extract. She also states that no person from the school even can carry out the said change and the said



change can be effected only after the prior permission of the Education Officer. She also admits that the said change showing the caste as “Halbi” has been done in pursuance to the order of the Education Officer. By taking this logic, the learned counsel for the petitioner submits that it has therefore unequivocally established that the change in caste effected in the said extract is done in pursuance to the order of the competent Authority and by following the provisions of the Secondary School Code and the same will relate back to the date i.e 3/4/1944.

12. Interestingly enough, in the Entry No.10A of very same person i.e. Balkrushna Maruti, when he was re-admitted after about one year in the same school i.e. on 3/4/1945, the caste has been shown again as “Koshti”. It is relevant to point out that this document is collected by Vigilance Cell itself and, therefore, there cannot be any doubt about the veracity thereof. This important document found by the Vigilance has been brushed aside by the Scrutiny Committee in view of a finding that the caste in the same has been overwritten totally ignoring the fact that the scratching and substitution of a new caste has been done in pursuance to the order of the Education Officer, a fact which is clear from the said document itself.

13. As far as the extract of school leaving register of one



Lila Gangaramji Newale and Suryabhan Newale, the reasons for discarding these documents is that no relationship is proved. The Scrutiny Committee in our considered opinion has rejected this due to the fact that the said persons do not find a name in the family tree and are obviously from the maternal side. As we have already stated supra, even though a challenge has been raised to the definition of relative as occurring in Rule 2(f) Maharashtra Scheduled Tribes (Regulation of Issuance and Verification of Certificate Rules, 2003, since no arguments have been advanced, we are not recording any finding on the said definition as also the veracity of document of the maternal side. However, the document dated 28/6/1954 cannot be brushed aside as has been done by the Scrutiny Committee.

14. Moving on, the reply of the petitioner to the Vigilance Cell is also important. The petitioner in his reply has specifically stated that the affinity test is not permissible since old entry of 1955, there is a mention of “Halba” caste in the school record. Furthermore, even the second Vigilance Cell report specifically states that the marriage has been effected within the same Tribe. Furthermore, vide reply dated 20th June, 2017, the petitioner had specifically denied that the contra entries showing caste as “Koshti” are not the part of earlier Police Vigilance Cell report. It was also



stated that neither the name of the father nor the surname is available and, therefore, the persons mentioned in the said entries cannot be cannot be connected with the petitioner. This explanation has also not been considered by the Scrutiny Committee.

15. In that view of the matter, we are of the considered opinion that the order of the Scrutiny Committee, Amravati being perverse cannot be sustained. We, therefore, pass the following order :

ORDER

- (i) The Writ Petition is allowed.
- (ii) The Order passed by by the respondent No.2 Scrutiny Committee, Amravati No.JC/TCSC/AMT/5-ST/2009/13848, dated 28/11/2022 is quashed and set aside.
- (iii) It is hereby declared that the petitioner belongs to “Halba” Scheduled Tribe and the Scrutiny Committee, Amravati is directed to issue a validity certificate in her favour within four weeks from the date of order.
- (iv) The Writ Petition is disposed of.
- (v) Rule is made absolute in the abovestated terms.

(NANDESH S. DESHPANDE, J.)

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