



2026:CGHC:17637

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Order Reserved on : 20.03.2026

Order Delivered on : 17.04.2026

WPC No. 840 of 2020

Indrapal Bhaskar, aged about 52 years, S/o Shri Johan Ram Bhaskar, Occupation Service Assistant Teacher (LB) Primary School Jhikatola, District Balod (Chhattisgarh), R/o Village and Post Badgaon, Tehsil Daundilohara, District Balod (Chhattisgarh)

--- Petitioner

Versus

1. State of Chhattisgarh through the Secretary, Scheduled Castes and Scheduled Tribes Development Department, Naya Raipur, Mantralaya, District Raipur (CG)
2. State of Chhattisgarh through the Secretary, School Education Department, Naya Raipur, Mantralaya, District Raipur (CG)
3. High Power Certification Scrutiny Committee through its Member Secretary-cum-Director, Tribal and Scheduled Castes and Scheduled Tribes Development, Office at Block-4D, Ground Floor, Naya Raipur, Atal Nagar, District Raipur (CG)
4. Collector, Balod, District Balod (Chhattisgarh)

--- Respondents

(Cause-title taken from Case Information System)

For Petitioner	:	Mr. R. K. Bhagat, Advocate
For State/Respondents	:	Mr. Sangharsh Pandey, Government Advocate

Hon'ble Shri Amitendra Kishore Prasad, Judge

CAV Order

1. Heard Mr. R.K. Bhagat, learned counsel for the petitioner as well as Mr. Sangharsh Pandey, learned Government Advocate appearing for the State/respondents.
2. The petitioner is aggrieved by the order dated 25.01.2020 passed by the High Power Certification Scrutiny Committee, whereby the caste certificate issued in favour of the petitioner has been cancelled, and the concerned authorities have been directed to take appropriate action in accordance with the provisions contained under Section 9(3) of the Chhattisgarh Scheduled Castes, Scheduled Tribes and Other Backward Classes (Regulation of Social Status Certification) Act, 2013 (for short, 'Act of 2013') as well as Rules 23(3), 23(5) and 24(1) of the Chhattisgarh Scheduled Castes, Scheduled Tribes and Other Backward Classes (Regulation of Social Status Certification) Rules, 2013 (for short, 'Rules of 2013'). The petitioner has sought for following relief(s) :-

“10.1 That the petitioner most humbly and respectfully prays to this Hon'ble Court to issue appropriate writ/order/direction for quashment of impugned order dated 25.1.2020 contained in ANNEXURE-P/1.

10.2 That the petitioner most humbly and respectfully prays to this Hon'ble Court to issue appropriate writ/order/direction to hold that the

caste certificate issued to the petitioner contained in ANNEXURE-P/2 as valid.

10.3 Any other relief whatsoever, this Hon'ble Court may deem fit and proper may also be granted to the petitioner."

3. Brief facts of the case, in a nutshell are that the petitioner was issued a valid caste certificate by the competent authority certifying him to be a member of the Scheduled Caste community "Mahar". The said caste "Mahar" stands notified as a Scheduled Caste under Clause (1) of Article 341 of the Constitution of India in the erstwhile State of Madhya Pradesh and continues to retain the same status in the State of Chhattisgarh after its bifurcation. The petitioner, being duly qualified educationally, was appointed as Assistant Teacher (LB) on 29.06.2007, after due consideration of his eligibility and the benefit of reservation applicable to Scheduled Caste candidates. Since then, he has been discharging his duties and is presently posted as Assistant Teacher (LB) at Primary School, Jhikatola, District Balod (Chhattisgarh). In the year 2013, a vague and omnibus complaint was made against the petitioner along with 17 other persons alleging that they had secured appointment on the basis of forged caste certificates. Acting upon such complaint, a preliminary enquiry is stated to have been conducted by the Sub-Divisional Officer (Revenue), Balod and the District Level Scrutiny Committee, and thereafter, the matter was referred on 06.02.2013 to the High Power Certification Scrutiny Committee.

4. Upon receipt of the reference, the High Power Certification Scrutiny Committee initiated an enquiry and sought reports from the Vigilance Cell as well as the Investigation Assistant. The Vigilance Cell, after examining documentary evidence, recorded certain findings. It noted that in the Missal Bandobast of the year 1930–31 pertaining to the petitioner's grandfather, namely Sadaram, and his brother Ajab Singh, their caste was recorded as "Mahara". It was further observed that the petitioner's father, Johan Ram, at the time of his admission in Primary School in the year 1947, had mentioned his caste as "Baya". At the same time, the caste certificate issued in favour of the petitioner records his caste as "Mahar", which is also reflected in the petitioner's school records.
5. Statements of local villagers were also recorded, who affirmed that the petitioner's family has been recognized in society as belonging to the "Mahara/Mahar" community.
6. Despite such material, the Vigilance Cell arrived at a highly erroneous and untenable conclusion by suggesting a new caste category termed "Baya Mahara", which finds no mention in any of the documents examined and is not a recognized caste. Simultaneously, the Investigation Assistant conducted a detailed enquiry into the petitioner's social status, including aspects such as ancestral profession, mother tongue, family customs, deities, and social acceptance.

7. Upon completion of the investigation, the Investigation Assistant submitted a report clearly concluding that the petitioner shares the same social status and characteristics as members of the “Mahar” Scheduled Caste community. However, the High Power Certification Scrutiny Committee, while passing the impugned order dated 25.01.2020, failed to properly appreciate the material on record. The Committee ignored the affirmative findings of the Vigilance Cell and completely overlooked the report of the Investigation Assistant, which substantiated the petitioner’s claim. Without assigning cogent reasons and in disregard of the relevant evidence, the Committee proceeded to cancel the petitioner’s caste certificate and directed consequential action under Section 9(3) of the Act of 2013, read with Rules 23(3), 23(5) and 24(1) of the Rules of 2013.
8. Being aggrieved by the said arbitrary and unsustainable action, the petitioner has preferred the present petition.
9. Mr. R. K. Bhagat, learned counsel for the petitioner submits that the impugned action of the High Power Certification Scrutiny Committee is *ex facie* illegal, arbitrary and contrary to the constitutional scheme. By virtue of powers conferred under Clause (1) of Article 341 of the Constitution of India, the caste “Mahar” stands duly notified as a Scheduled Caste in the erstwhile State of Madhya Pradesh and continues to retain the said status even after the bifurcation of the State and formation of the State of

Chhattisgarh. It is further submitted that at Serial No. 31 of the Presidential Order applicable to the State of Chhattisgarh, the castes “Mahar”, “Mehra” and “Mehar” are specifically recognized as Scheduled Castes. Therefore, the very foundation of the impugned order, whereby the caste status of the petitioner has been doubted, is legally unsustainable. It is further contended that the Scrutiny Committee has committed a grave error in completely overlooking the settled principles governing verification of caste status, particularly the requirement of conducting an affinity test. It is well settled that determination of caste status cannot be based solely on documentary evidence but must also take into account anthropological and ethnological traits, customs, traditions, and social acceptance of the individual. In the present case, the Investigation Assistant of the Vigilance Cell had conducted a detailed enquiry and categorically recorded a finding that the petitioner shares identical social status, customs and traits with other members of the “Mahar” community. However, the said crucial report has been completely ignored by the Scrutiny Committee without assigning any reason, thereby vitiating the impugned order.

- 10.** Learned counsel further submits that the Committee has failed to appreciate that greater probative value is to be attached to pre-Independence documents, as such documents are less likely to be manipulated and carry higher evidentiary sanctity. In the present case, the Missal Bandobast records of 1929–30 and 1930–31

clearly reflect the caste of the petitioner's ancestors as "Mahara", which is synonymous with "Mahar". Despite this, the Committee has discarded such vital evidence on flimsy grounds, while at the same time relying upon inconclusive and inconsistent entries such as "Baya". It is further submitted that no proper opportunity was afforded to the petitioner to explain alleged discrepancies, nor were the concerned authorities, such as the Head Master, examined to verify the correctness of the records. It is also contended that the Vigilance Cell itself has not recorded any finding that the documents produced by the petitioner are forged or fabricated. Rather, the entire adverse inference is based on speculative observations regarding alleged corrections in certain entries. Shockingly, the Vigilance Cell has proceeded to invent a non-existent caste category, namely "Baya Mahara", which finds no mention in any statutory notification or in any of the documents on record. Such a conclusion is perverse and demonstrates complete non-application of mind.

11. Learned counsel further submits that as per Rule 21 of the Rules of 2013, where the Vigilance Cell report supports the claim of the applicant, no further adverse action is warranted. In the present case, the Investigation Assistant's report clearly supports the petitioner's claim, and therefore, there was no occasion for the Scrutiny Committee to take a contrary view. The deliberate suppression of the favourable findings of the affinity test renders the impugned order wholly arbitrary and unsustainable in law. It is

also argued that the invocation of Section 9(3) of the Act of 2013 and Rules 23(3), 23(5) and 24(1) of the Rules of 2013 is wholly misconceived, inasmuch as there is no finding that the petitioner has obtained the caste certificate by fraud, misrepresentation or any illegal means. In absence of any such finding, the drastic consequences contemplated under the said provisions could not have been triggered. The impugned action, therefore, amounts to misuse of statutory powers.

12. Lastly, it is submitted that the petitioner has been serving as an Assistant Teacher since the year 2007 and has an unblemished service record. If the impugned order is allowed to stand, the petitioner would suffer grave and irreparable loss. It is further pointed out that in respect of a close relative of the petitioner, whose case is similarly situated, the caste certificate has already been duly verified and upheld by the same Scrutiny Committee. The petitioner has placed on record the said verification along with the family tree to establish parity. In such circumstances, the impugned order is liable to be set aside.
13. In support of his contention, learned counsel for the petitioner placed reliance upon the order passed by Co-ordinate Bench of this Court in ***WPC No.842 of 2020 (Santosh Kumar Bhaskar v. State of Chhattisgarh and others)*** decided on 06.03.2024.
14. On the other hand, Mr. Sangharsh Pandey, learned State counsel opposed the submissions advanced by learned counsel for the

petitioner and submits that the entire writ petition is misconceived and devoid of merits, as the petitioner has failed to discharge the burden of proving his caste status as belonging to the “Mahar” Scheduled Caste. The primary contention of the petitioner, that there exists no caste such as “Baya Mahara”, is factually incorrect. Learned State counsel submits that “Baya Mahara” is a recognized caste included in the Other Backward Classes (OBC) category in the State of Chhattisgarh, as reflected at Serial No. 78 of the relevant State notification. Therefore, the petitioner cannot deny the existence of such caste merely to discredit the findings of the Vigilance Cell. It is further submitted that the entire proceedings were initiated on the basis of a specific and substantiated complaint dated 18.08.2012 made by a member of the Scheduled Caste community, wherein it was categorically alleged that the petitioner, who actually belongs to “Baya Mahara” (OBC), had fraudulently obtained a caste certificate of “Mahar” (Scheduled Caste) and availed benefits meant for SC candidates. The said complaint named the petitioner along with 17 others. Upon preliminary inquiry conducted by the Sub-Divisional Officer (Revenue), Dondi-Lohara, it was found that prima facie the petitioner belongs to “Baya Mahara” community. Consequently, the matter was referred to the competent Scrutiny Committees for detailed verification.

- 15.** Learned State counsel further submits that due procedure as prescribed under the Act of 2013 and the Rules of 2013 has been

strictly followed. The matter was examined at multiple levels, including by the District Level Caste Scrutiny Committee and thereafter by the High Power Caste Scrutiny Committee. The petitioner was afforded adequate opportunities of hearing, including issuance of show cause notices and personal hearings on multiple dates. Therefore, the allegation of violation of principles of natural justice is wholly baseless. It is contended that the Vigilance Cell, constituted in accordance with Rule 22 of the Rules of 2013 and headed by a Deputy Superintendent of Police, conducted a thorough and detailed inquiry by examining revenue records, school records, and statements of local villagers. The Vigilance Cell, on appreciation of the entire evidence, categorically concluded that the petitioner does not belong to “Mahar” Scheduled Caste but belongs to “Baya Mahara” community, which falls under the OBC category. The said report forms the backbone of the proceedings and has rightly been relied upon by the High Power Caste Scrutiny Committee.

- 16.** Learned State counsel also submits that the reliance placed by the petitioner on the report of the so-called “Investigation Assistant” is misplaced and legally untenable. It is clarified that no such statutory post exists under the Act or the Rules. At best, the report relied upon by the petitioner is that of a Research Assistant, which has no statutory backing and cannot override or dilute the findings of the Vigilance Cell constituted under the statutory framework. Therefore, the Scrutiny Committee has rightly given primacy to the

Vigilance Cell report. It is further submitted that the documentary evidence produced by the petitioner itself creates doubt regarding his caste status. The school admission register of the petitioner's father clearly records the caste as "Baya", and there are inconsistencies in other records, including indications of manipulation in entries reflecting "Mahar". In contrast, revenue records and other contemporaneous documents indicate the caste of the petitioner's ancestors as "Baya" or related variants. In such circumstances, the Scrutiny Committee has rightly concluded that the petitioner failed to establish his claim of belonging to Scheduled Caste.

17. Lastly, learned State counsel submits that once the caste certificate of the petitioner has been found to be invalid, the consequential action under Section 9(3) of the Act of 2013 and Rules 23(3), 23(5) and 24(1) of the Rules of 2013 has rightly been invoked. Since the petitioner has secured appointment against a post reserved for Scheduled Caste candidates without actually belonging to such category, his appointment is void ab initio and liable to be cancelled. It is thus prayed that the writ petition being devoid of merit deserves to be dismissed.
18. I have heard learned counsel appearing for the petitioner as well as learned counsel appearing for the State/respondents at length and have given my thoughtful consideration to the rival submissions advanced on behalf of the parties. I have also

carefully perused the pleadings, documents and material placed on record, including the reports submitted by the Vigilance Cell, the findings recorded by the High Power Certification Scrutiny Committee, as well as the documents relied upon by the petitioner in support of his claim.

19. Upon such consideration, this Court finds that the controversy involved in the present case lies within a narrow compass, namely, the correctness and legality of the impugned order dated 25.01.2020 passed by the High Power Certification Scrutiny Committee, whereby the caste certificate of the petitioner has been cancelled and consequential directions have been issued. The Court is, therefore, required to examine whether the said order has been passed in accordance with law, upon proper appreciation of evidence on record and in adherence to the settled principles governing determination of social status.
20. From perusal of the impugned order dated 25.01.2020, it transpires that the High Power Certification Scrutiny Committee has proceeded to examine the case of the petitioner in light of the guidelines laid down by the Hon'ble Supreme Court in ***Madhuri Patil vs. Additional Commissioner, Tribal Development*** (AIR 1995 SC 94), as well as the provisions contained under the Chhattisgarh Scheduled Castes, Scheduled Tribes and Other Backward Classes (Regulation of Social Status Certification) Act, 2013 and the Rules framed thereunder. The Committee has noted

that it was duly reconstituted vide notification published in the Chhattisgarh Gazette (Extraordinary) dated 21.02.2018, thereby superseding the earlier constitution of the Committee. It further transpires that the proceedings were initiated pursuant to a complaint alleging that the petitioner and others had secured public employment on the basis of false caste certificates. The Sub-Divisional Officer (Revenue), Dondi Lohara, District Balod conducted a preliminary inquiry and, upon finding prima facie substance in the allegations, referred the matter to the District Level Scrutiny Committee, which in turn forwarded the case to the High Power Certification Scrutiny Committee through the Assistant Commissioner, Tribal Development, vide communication dated 06.02.2013 for detailed investigation.

- 21.** The impugned order reflects that various documents relating to the petitioner and his family members were taken into consideration by the Committee. These included school records, revenue records such as Kisanbandi Khatauni and mutation registers, as well as genealogical records. Notably, certain documents, including the school admission register of the petitioner's father (year 1947), recorded the caste as "Baya", whereas the Misal Settlement record of the year 1930–31 pertaining to the petitioner's grandfather recorded the caste as "Mahara". Other revenue records of subsequent years also reflected entries such as "Baya" and "Baya Mahar". It is further evident that, in compliance with the prescribed procedure, the Committee referred

the matter to the Vigilance Cell for detailed inquiry, which submitted its report dated 22.07.2017 after examining documentary evidence and recording statements of local villagers. While the villagers reportedly identified the petitioner's family as belonging to "Mahar" community, the Vigilance Cell, upon overall assessment of the records, concluded that the petitioner belongs to "Baya Mahara" caste, which is not included in the list of Scheduled Castes in the State of Chhattisgarh. The impugned order also indicates that the Committee had issued show cause notices to the petitioner and afforded him opportunities of hearing on multiple dates, including 13.12.2019 and 17.01.2020. The petitioner submitted his replies and relied upon certain documents, including pre-independence records and other supporting material to establish his caste as "Mahar". However, the Committee found that the petitioner failed to produce cogent documentary evidence of sufficient probative value, particularly prior to the Presidential Notification of 1950, to conclusively establish his claim. On the basis of the Vigilance Cell report, documentary evidence on record, and the material produced during the course of hearing, the Committee arrived at the conclusion that the petitioner does not belong to "Mahar" Scheduled Caste, but rather to "Baya Mahara" community. Consequently, the caste certificate dated 24.10.2003 issued in favour of the petitioner was held to be invalid and was cancelled in exercise of powers under Section 8(1) of the Act of 2013 read with Rule 23(2) of the Rules of 2013. The

Committee further directed initiation of consequential action under Section 9(3) of the Act of 2013 and Rules 23(3), 23(5) and 24(1) of the Rules of 2013.

- 22.** From perusal of Annexure P/4 dated 22.07.2017, it is quite clear that the Vigilance Cell, upon conducting a detailed and comprehensive enquiry in accordance with the directions issued by the Hon'ble Supreme Court and the Hon'ble High Court of Chhattisgarh, has categorically recorded a finding that the caste of the petitioner/holder is 'Baya-Mahara' and not 'Mahar' as claimed. It has further been specifically observed that the said caste 'Baya-Mahara' does not find mention in the list of Scheduled Castes notified for the State of Chhattisgarh. Thus, the report unequivocally concludes that the petitioner does not belong to the 'Mahar' Scheduled Caste category, thereby rendering the caste certificate issued in his favour liable to be treated as invalid.
- 23.** Having considered the submissions of learned counsel for the parties and after perusing the material available on record, it is significant to note that the earliest available documentary evidence, i.e., the Misal Bandobast records of the years 1929–30 and 1930–31, unequivocally reflect that the petitioner's forefathers were recorded as belonging to "Mahara" caste. The said entry, being a pre-independence document, carries great evidentiary value and credibility, inasmuch as such documents are presumed to be free from manipulation and constitute the best evidence for

determining social status. Importantly, there is no whisper in these records about any caste described as “Baya Mahara”. The introduction of such a nomenclature by the Vigilance Cell is, therefore, wholly artificial, unsupported by any statutory notification, and clearly dehors the material on record.

- 24.** This Court further finds that the caste “Mahar” is a notified Scheduled Caste under Article 341 of the Constitution of India and continues to hold such status in the State of Chhattisgarh. Once the petitioner has produced cogent documentary evidence establishing linkage with “Mahara/Mahar” caste, the burden shifted upon the respondents to dislodge the same by leading clear, cogent and convincing evidence. However, the respondents have failed to discharge such burden. It is also apparent that the Scrutiny Committee has committed a patent error in selectively relying upon stray and inconclusive entries such as “Baya” recorded in certain school documents, while discarding the more reliable and probative pre-independence records without assigning any cogent reason. The approach of the Committee, in this regard, is contrary to the settled principles of appreciation of evidence in caste verification matters.
- 25.** Further, this Court cannot lose sight of the fact that the statements of independent villagers, recorded during the course of vigilance enquiry, clearly support the petitioner’s claim that his family has always been recognized in society as belonging to the “Mahar”

community. The element of social acceptance, which forms a crucial component of the affinity test, has thus been established in favour of the petitioner. In addition, the report of the Investigation Assistant (though sought to be discredited by the State) categorically affirms that the petitioner shares the anthropological, ethnological and customary traits of the “Mahar” Scheduled Caste community. The complete non-consideration of such vital material renders the decision-making process vitiated on account of non-application of mind.

26. The Hon’ble Supreme Court, in a catena of decisions, including ***Madhuri Patil vs. Additional Commissioner, Tribal Development (AIR 1995 SC 94)***, has laid down the procedure and safeguards to be followed in caste verification proceedings, emphasizing that such determinations must be based on a holistic consideration of documentary evidence, affinity test and social acceptance. Recently, the Supreme Court has reiterated that greater reliance must be placed upon pre-independence documents and that minor discrepancies in subsequent records cannot override consistent and credible ancestral evidence. It has also been held that findings of Scrutiny Committees must be based on cogent reasoning and cannot rest on conjectures or invented classifications.
27. In ***Kavita Solunke v. State of Maharashtra and others, (2012) 8 SCC 430***, the Hon’ble Supreme Court has also held that

invalidating a caste claim in absence of fraud would not automatically justify punitive consequences, thereby underscoring the requirement of a strict standard of proof, by observing as follows :-

“14. A careful reading of the above would show that both the High Court as also this Court were conscious of the developments that had taken place on the subject whether ‘Halba-Koshti’ are ‘Halbas’ within the meaning of the Presidential Order. The position emerging from the said circulars, resolutions and orders issued by the competent authority from time to time notwithstanding, this Court on an abstract principle of law held that an inquiry into the question whether ‘Halba-Koshti’ were Halbas within the meaning of the Presidential order was not legally permissible.

15. The appellant before us relies upon the above passage extracted above to argue that her appointment had attained finality long before the judgment of this Court was delivered in Milind’s case and even when she was found to be a ‘Koshti’ and not a ‘Halba’ by the Verification Committee, she was entitled to protection against ouster.

16. We find merit in that contention. If ‘Halba-Koshti’ has been treated as ‘Halba’ even before the appellant joined service as a Teacher and if the only reason for her ouster is the law declared by this Court in Milind’s case, there is

no reason why the protection against ouster given by this Court to appointees whose applications had become final should not be extended to the appellant also. The Constitution Bench had in Milind's case noticed the background in which the confusion had prevailed for many years and the fact that appointments and admissions were made for a long time treating 'Koshti' as a Scheduled Tribe and directed that such admissions and appointments wherever the same had attained finality will not be affected by the decision taken by this Court.

17. After the pronouncement of judgment in Milind's case, a batch of cases was directed to be listed for hearing before a Division Bench of this Court. The Division Bench eventually decided those cases by an order dated 12th December 2000 (State of Maharashtra v. Om Raj (2007) 14 SCC 488) granting benefit of protection against ouster to some of the respondents on the authority of the view taken by this Court in Milind's case. One of these cases, namely, Civil Appeal No.7375 of 2002 arising out of SLP No.6524 of 1988 related to the appointment of a 'Koshti' as an Assistant Engineer against a vacancy reserved for a 'Halba/Scheduled Tribe candidate. This court extended the benefit of protection against ouster to the said candidate also by a short order passed in the following words:

"4. Leave granted.

5. The appellant having belonged to Koshti caste claimed to be included in the Scheduled Tribe of Halba and obtained an appointment as Assistant Engineer. When his appointment was sought to be terminated on the basis that he did not belong to Scheduled Tribe by the Government a writ petition was filed before the High Court challenging that order which was allowed. That order is questioned in this appeal. The questions arising in this case are covered by the decision in State of Maharashtra v. Milind¹ and were got to be allowed, however, the benefits derived till now shall be available to the appellant to the effect that his appointment as Assistant Engineer shall stand protected but no further. The appeal is disposed of accordingly.”

18. Reference may also be made to Punjab National Bank v. Vilas (2008) 14 SCC 545. That too was a case of appointment based on a certificate which was later cancelled on the ground that ‘Halba Koshti’ was not the same as ‘Halba’ Scheduled Tribe. The High Court had set aside the termination of the service of the affected candidates relying upon a Government resolution dated 15th June 1995 as applicable to Punjab National Bank. While upholding the said order, H.K. Sema, J. held the candidate to be protected against ouster on the basis of the resolution. V.S. Sirpurkar, J., however, took a slightly different view and held that the appointment made by the Bank having become

final the same was protected against ouster in terms of the decision of the Constitution Bench in Milind's case (supra). The question whether the Government resolution protected the candidates against ouster from service was for that reason left open by His Lordship. Reliance in support of that view was placed upon the decision of this Court in Civil Appeal No. 7375 of 2000 (wrongly mentioned in the report as Civil appeal No. 3375 of 2000) mentioned above. The Court observed:

"The situation is no different in case of the present respondent. He also came to be appointed and/or promoted way back in the year 1989 on the basis of his caste certificate which declared him to be Scheduled Tribe. Ultimately, it was found that since a "Koshti" does not get the status of a Scheduled Tribe, the Caste Scrutiny Committee invalidated the said certificate holding that the respondent was a Koshti and not a Halba. I must hasten to add that there is no finding in the order of the Caste Scrutiny Committee that the petitioner lacked in bona fides in getting the certificate. I say this to overcome the observations in para 21 in Sanjay K. Nimje case. But it is not a case where the respondent pleaded and proved bona fides. Under such circumstances the High Court was fully justified in relying on the observations made in Milind case. The High Court has not referred to the judgment and order in Civil Appeal No. 3375 of 2000

decided on 12-12-2000 to which a reference has been made above. However, it is clear that the High Court was right in holding that the observations in Milind case apply to the case of the present respondent and he stands protected thereby”.

19. Our attention was drawn by counsel for the respondents to the decision of this Court in Addnl. General Manager/Human Resource BHEL v. Suresh Ramkrishna Burde (2007) 5 SCC 336 in which the protection against ouster granted by the decision in Milind’s case was not extended to the respondent therein. A bare reading of the said decision, however, shows that there is a significant difference in the factual matrix in which the said case arose for consideration. In Burde’s case, the Scrutiny Committee had found that the caste certificate was false and, therefore, invalid. That was not the position either in Milind’s case nor is that the position in the case at hand. In Milind’s case, the Scrutiny Committee had never alleged any fraud or any fabrication or any misrepresentation that could possibly disentitle the candidate to get relief from the Court. In the case at hand also there is no such accusation against the appellant that the certificate was false, fabricated or manipulated by concealment or otherwise. Refusal of a benefit flowing from the decision of this Court in Milind’s case may, therefore, have been justified in Burde’s case but may not be justified in the case at hand where the appellant has not

been accused of any act or omission or commission of the act like the one mentioned above to disentitle her to the relief prayed for. The reliance upon Burde's case (supra), therefore, if of no assistance to the respondent.

20. The decision of this Court in State of Maharashtra v. Sanjay K. Nimje (2007) 14 SCC 481 relied upon by learned counsel for the respondents was distinguished even by V.S. Sirpurkar, J. in Vilas's case. The distinction is primarily in terms whether the candidate seeking appointment or admission is found guilty of a conduct that would disentitle him/her from claiming any relief under the extraordinary powers of the Court. This Court found that if a person secures appointment or admission on the basis of false certificate he cannot retain the said benefit obtained by him/her. The Courts will refuse to exercise their discretionary jurisdiction depending upon the facts and circumstances of each case.

21. The following passage from decision in the Nimje's case is apposite:

"In a situation of this nature, whether the Court will refuse to exercise its discretionary jurisdiction under Article 136 of the Constitution of India or not would depend upon the facts and circumstances of each case. This aspect of the matter has been considered recently by this Court in Sandeep Subhash Parate v. State of Maharashtra (2006) 7 SCC 501."

22. Applying the above to the case at hand we do not see any reason to hold that the appellant had fabricated or falsified the particulars of being a Scheduled Tribe only with a view to obtain an undeserved benefit in the matter of appointment as a Teacher. There is, therefore, no reason why the benefit of protection against ouster should not be extended to her subject to the usual condition that the appellant shall not be ousted from service and shall be re-instated if already ousted, but she would not be entitled to any further benefit on the basis of the certificate which she has obtained and which was 10 years after its issue cancelled by the Scrutiny committee.”

- 28.** Recently, in *Yogesh Madhav Makalwad v. State of Maharashtra and others*, 2025 SCC OnLine SC 1679, the Hon'ble Supreme Court has held thus :-

“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. 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.

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.

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 Maharashtra⁴ 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.

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- 29.** Reverting to the facts of the present case in the light of the aforesaid judicial precedent, it is quite vivid that the impugned action of the Scrutiny Committee cannot withstand judicial scrutiny. The petitioner has produced consistent and credible pre-

independence documentary evidence reflecting his lineage from “Mahara/Mahar” caste, which, as held by the Hon’ble Supreme Court, carries the highest probative value. The said evidence is further corroborated by the statements of independent villagers as well as the affinity test indicating social acceptance of the petitioner as a member of the “Mahar” community. In contrast, the conclusion drawn by the Scrutiny Committee is primarily founded upon stray and inconclusive entries such as “Baya” and an artificially coined expression “Baya Mahara”, which finds no recognition either in statutory notifications or in the documentary record. The approach adopted by the Committee, in discarding reliable ancestral records and ignoring material evidence favourable to the petitioner, is clearly contrary to the settled principles laid down by the Hon’ble Supreme Court, and reflects perversity and non-application of mind. Further, in absence of any cogent finding of fraud or misrepresentation, the drastic action of cancellation of caste certificate and initiation of penal consequences is wholly arbitrary and disproportionate.

- 30.** This Court is also persuaded by the fact that the petitioner has been in continuous service since the year 2007 and has discharged his duties as an Assistant Teacher for a considerable length of time without any blemish or adverse remark. The long and uninterrupted service rendered by the petitioner cannot be lightly disregarded, particularly when his initial appointment was made after due verification of his eligibility and caste status by the

competent authorities. The impugned action, if sustained, would not only result in loss of employment but would also visit the petitioner with serious civil and pecuniary consequences, thereby affecting his livelihood and dignity. The Hon'ble Supreme Court has repeatedly held that where an employee has served for a long duration, the consequences of cancellation of caste certificate must be examined with greater caution, especially in absence of any finding of fraud.

- 31.** It is further to be noted that the doctrine of proportionality, which is now well entrenched in administrative law, mandates that the action taken by the authorities must be commensurate with the gravity of the alleged misconduct. In the present case, there is no finding that the petitioner has indulged in any deliberate misrepresentation or fraud. The entire case rests upon doubtful and inconsistent entries, which by themselves are insufficient to dislodge the strong presumption arising from reliable ancestral records. Therefore, the extreme consequence of cancellation of caste certificate and initiation of penal action is clearly disproportionate and arbitrary.
- 32.** This Court also finds substance in the submission of the petitioner that similarly situated persons within the same family have been granted validation of their caste status by the competent Scrutiny Committee. The principle of parity, which is a facet of Article 14 of the Constitution of India, requires that similarly situated persons

be treated alike. In absence of any distinguishing feature, the denial of similar treatment to the petitioner renders the impugned action discriminatory and violative of the guarantee of equality before law.

- 33.** The impugned order further suffers from the vice of non-application of mind, inasmuch as it fails to consider relevant material on record while placing undue reliance on inconclusive and extraneous factors. The selective appreciation of evidence, coupled with complete disregard of vital documents and reports supporting the petitioner, vitiates the decision-making process. It is trite law that when a statutory authority exercises quasi-judicial powers, it is incumbent upon it to record clear reasons demonstrating application of mind to the material available on record. The absence of such reasoning renders the order unsustainable.
- 34.** In view of the foregoing discussion and in the light of the settled legal principles laid down by the Hon'ble Supreme Court, this Court has no hesitation in holding that the impugned order dated 25.01.2020 suffers from manifest illegality, arbitrariness, perversity and non-application of mind. The findings recorded by the Scrutiny Committee are not borne out from the evidence on record and are liable to be interfered with in exercise of writ jurisdiction under Article 226 of the Constitution of India.
- 35.** Accordingly, the writ petition deserves to be and is hereby allowed.

The impugned order dated 25.01.2020 (Annexure P/1) passed by the High Power Certification Scrutiny Committee is hereby quashed and set aside. It is declared that the caste certificate issued in favour of the petitioner (Annexure P/2) is valid and subsisting in the eyes of law.

- 36. As a natural consequence, all further actions initiated or contemplated pursuant to the impugned order, including those under Section 9(3) of the Act of 2013 and the relevant Rules, shall stand quashed. The respondents are directed not to take any coercive steps against the petitioner on the basis of the impugned proceedings.
- 37. The respondents are further directed to extend all consequential service benefits to the petitioner, including continuity of service and protection of his employment, within a reasonable period, preferably within a period of 90 days from the date of receipt of a certified copy of this order.
- 38. There shall be no order as to costs.

Sd/-
(Amitendra Kishore Prasad)
Judge

Yogesh

The date when the judgment is reserved	The date when the judgment is pronounced	The date when the judgment is uploaded on the website	
		Operative	Full
20.03.2026	17.04.2026	-----	17.04.2026