

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (ST.) NO. 7238 OF 2021

Shri Vijaysing Ajabsing Patil,]
Age 39 years, Occ. Service,]
R/o. At Barrack No. 114, above]
Shani Mandir Road, Ulhasnagar No.1,]
Dist. Thane 421 001.] ...Petitioner

V/s.

1. Research Officer/ Member Secretary]
District. Caste Verification Committee]
Thane, Room No. 9 and 10, Ground Floor,]
Kokan Bhuvan, CBD Belapur, Navi Mumbai,]
Dist. Thane.
2. Divisional Joint Registrar,]
Co-op. Society, Kokan Division,]
Navi Mumbai Office at Kokan Bhuvan]
3rd Floor, Room No. 308, Navi Mumbai-614]
3. The State of Maharashtra]
(Copy to be served upon AGP, Appellate]
Side, Bombay High Court).] ...Respondents

Mr. Prasad Kulkarni, Advocate a/w. Mr.C.S. Patil, Advocate for the
Petitioner.

Mrs. S.S. Bhende, AGP for the State.

CORAM : K.K.TATED AND
ABHAY AHUJA, JJ.

RESERVED ON : 23rd MARCH, 2021.
PRONOUNCED ON : 08th APRIL, 2021.

PER COURT:

1 By this Petition, the Petitioner is seeking quashing and setting aside the order dated 15th March 2021 passed by Respondent No.1-District Caste Verification Committee, Thane invalidating the caste claim of the Petitioner as '*Rajput Bhamta*'. It is the claim of the Petitioner that he belongs to Hindu Rajput Bhamta caste which falls in V.J. category and has been granted caste certificate dated 6th August 1993 by the Competent Officer.

2 Petitioner submitted proposal for caste verification on 4/4/2003 vide proposal No.541 of 2003 to the Respondent No.1-Committee after which the caste claim of the Petitioner was subjected to enquiry by the Vigilance Cell who submitted its report on 25th July, 2003. The Vigilance report is annexed at Exhibit-D (page 30 to the petition). It is submitted that based on its enquiry, the petitioner's caste appeared to be '*Rajput Bhamta*'.

3 It is submitted that the Petitioner was directed to file a fresh proposal which was submitted by the Petitioner on 24th November 2010 and Petitioner submitted written submissions on 18th June 2013 pursuant to the request dated 1st June 2013 by the Respondent No.1-Committee.

4 Petitioner submits that Petitioner had been consistently following up with Respondent No.1 and was being informed that he would be communicated of the outcome of the pending proposal by post. He submits that to his shock and surprise, he received notice issued by the Respondent No.2 dated 13th January 2021 Additional Joint Registrar of Co-operative Societies, Konkan Division, Navi Mumbai whereby Petitioner was called for hearing scheduled on 28th January 2021. It is pertinent to refer that earlier the Petitioner based on caste certificate dated

6th August 1993 was appointed as Junior Clerk with the Co-operative Officer, Co-operative Society, Vengurla vide order dated 31st December 2003 pursuant to the recruitment drive for backlog of backward community. Pursuant to the selection, by order dated 12th March 2003 Respondent No.1- Caste Scrutiny Committee requested the Petitioner to submit certain documents with the Divisional Social Welfare Officer pursuant to which the proposal referred to above was submitted by the Petitioner for caste verification.

5 Pursuant to the notice for hearing scheduled on 28th January 2021, Petitioner participated in the said hearing and filed reply with the Respondent No.1. The Respondent No.2-employer also passed order on 28th January 2021 requesting the Petitioner to submit caste validity certificate within a period of 15 days else suitable action would be initiated against the Petitioner.

6 Petitioner thereafter approached Respondent No.1-Scrutiny Committee. However, since no decision was coming forth, Writ Petition St. No.2920 of 2021 was filed pursuant to which by order dated 18th February 2021, Petitioner was directed to submit the relevant documents on or before 26th February 2021 whereupon a decision was directed to be taken on or before 19th March 2021.

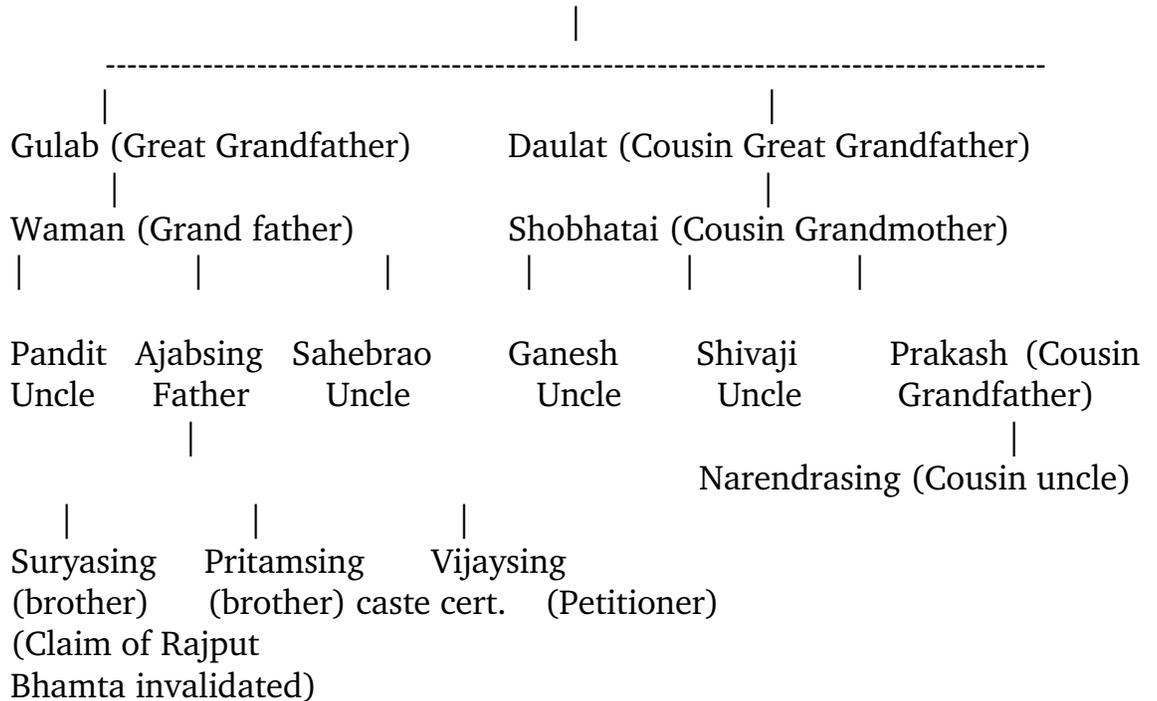
7 Thereafter Petitioner has submitted documents listed in paragraph 1(s) of the Petition and also referred to on pages 2 to 4 of the Impugned Order. After submission of documents by the Petitioner, Respondent No.1, directed scrutiny of documents and issued notice to submit written explanation vide letter dated 5th March, 2021 as the documents were insufficient and inconclusive to prove caste claim. Petitioner appeared before the Respondent No.1- Scrutiny Committee on

10th March, 2021 and submitted written explanation after which Respondent No.1- Scrutiny Committee vide order dated 15th March, 2021 rejected the caste claim of the Petitioner.

8 Being aggrieved by the same, Petitioner is before us seeking quashing of order of the Respondent no.1 dated 15th March 2021 and for protection of employment as Junior Clerk with Respondent No.2.

9 Learned counsel Shri Kulkarni appearing for the Petitioner has taken us through the genealogy of the Petitioner which is set out as under :

KHANDERAO PATIL



10 Learned counsel submits that in respect of Petitioner's claim to '*Rajput Bhamta*', he has with respect to the Grand father Shri Waman Gulaba Khanderao relied on birth register Form No.14 which shows his date of birth as 9th October, 1923. He would submit that this is the best piece of evidence which notes the caste as '*Rajput Bhamta*'. He submits that this document was also produced and verified during the verification

of his brother, viz., Suryasing Ajabsing Patil. He submits that the caste scrutiny committee has noted that the said documents have been verified with the original copy and found to be true and therefore there is no reason why the caste scrutiny committee has not considered the same to grant the caste claim of Petitioner. Also the School Leaving Certificate dated 28th January, 2000 in the name of the grand-father has been relied upon, which shows caste as “*Rajput Bhamta*” and date of birth as 16th July, 1923 and Date of School Admission as 2nd May, 1923 and place of birth as Jaitpir, Amalner. It is also submitted on behalf of the Petitioner that the vigilance committee report dated 25th July 2003 has not been considered as the same notes the caste of the Petitioner as ‘*Rajput Bhamta*’. He submits that the finding and reliance of the committee in Paragraph 6 is improper, especially that the committee has denied in toto to consider the said vigilance committee report.

11 With respect of the Petitioner’s claim through his father, Shri Ajabsing Waman Patil, learned Counsel submits that Petitioner has relied upon Caste Certificate No.938/ 1993 and dated 6th August, 1993 as well as Caste Certificate No.957, Certificate of Age and Domicile, Service Book of Father to make a claim as ‘*Rajput Bhamta*’.

12 The learned counsel for the Petitioner submits that considering the genealogy of the Petitioner, his cousin uncle – Narendrasing Prakash Patil has been granted the caste claim and validity certificate and the committee ought to have taken into consideration the said validity certificate considering the blood relation between the two.

13 The learned counsel for the Petitioner has also submitted that the Committee has failed to consider the affinity test. According to him, the Petitioner had provided the correct information to the committee regarding

his affinity, however the same has not been considered in right earnest.

14 It is further submitted on behalf of the Petitioner that considering that the Petitioner has been in government service since 2003, invalidation of caste claim would disentitle him from the employment and would cause him hardship. It is therefore submitted that a sympathetic and humanitarian approach may be adopted in the matter.

15 On the other hand, Shri S.S. Bhende, the learned AGP relies on the decision of the caste scrutiny committee. He would submit that neither on the basis of the documents of blood relation viz: grand-father, father nor on the basis of validity certificate of near relatives nor affinity test, the claim of the Petitioner has found favour with the committee and the committee has rightly rejected the claim of the Petitioner in view of findings given therein.

16 We have heard the learned counsel for the parties and with their assistance perused the papers and proceedings in the matter.

17 As can be seen from the Genealogy set out above, Petitioner is the real brother of Suryasing and his father is Ajabsing and grandfather is Waman. His cousin uncle is Narendrasing who is the son of Prakash comes from the lineage of cousin great grandfather Daulat.

18 Having perused the judgment and order of the caste scrutiny committee, we note that the caste scrutiny committee has considered the documents that have been submitted by the Petitioner. In the case of Petitioner's real brother, Suryasingh, the then caste scrutiny committee has given a finding that after scrutinizing the documents as well as the documentary proofs submitted alongwith the original application, it has come to the notice that earlier the then committee had rejected and

declared invalid Petitioner's real brother Suryasing Ajabsing Patil in respect of the caste claim of '*Rajput Bhamta*'. It is stated that when the committee perused the original file of Suryasing, it was found therein that the then committee had got an inquiry conducted through the vigilance squad and report had been submitted in the matter. From the said report of the vigilance squad, it was noticed that the school leaving certificate of the father and grandfather of the Petitioner were not verified by the vigilance squad and therefore the directions were given to verify the said school leaving certificate issued by the schools. That on 4th March 2021 the vigilance squad submitted an inquiry report in respect of School Leaving Certificate of the father and grandfather and also a Home enquiry report, which was communicated to the Petitioner under show-cause notice dated 5th March 2021. The Petitioner submitted his written explanation on 10th March 2021. At the hearing which was conducted on 10th March 2021, the Petitioner was present himself. The queries with respect to the affinity test were also answered by the Petitioner, which has been set out in the impugned order. Further, with respect to the points of arguments raised by the Petitioner, the Committee has given the following findings.

Birth Register Village Form 14 in the name of Grandfather Shri Waman Gulaba.

19 In the village form No.14 issued by Tahasildar to the Petitioner's grandfather Waman Gulaba Khanderao, the caste has been mentioned as '*Rajput*'. It is stated that after verifying the original record of the said document and the claim of the Petitioner's real brother Suryasing, the then committee verified documentary proof in the matter of Suryasing and invalidated his claim in respect of Rajput Bhamta caste. It is also mentioned that in the original record of village form No.14 which was produced by the Tahasildar office before the committee, at that time it was

noticed that the caste of the grandfather was mentioned as '*Rajput*' and not as '*Rajput Bhamta*' .

School Leaving Certificate of Grandfather and father.

The committee has also considered the school leaving certificate of the Petitioner's grandfather Waman Gulaba Khanderao, where the date of birth is mentioned as 26th July 1923 and the date of admission in school is mentioned as 2nd May 1929. It is stated that on making inquiry with respect to the said documents, the vigilance squad has found that in the original General Register in respect of the said document, the caste is mentioned as '*Rajput*'. But the inquiry report dated 4th March 2021 of the vigilance squad in the case of the Petitioner mentions grandfather's date of birth as 16th July 1923 and the date of admission in school as 2nd May 1929. On this basis, the committee has come to the conclusion that the Petitioner has submitted bogus/fabricated school leaving certificate of his grandfather having the entry of caste as '*Rajput Bhamta*' and has tried to mislead the committee. The School Leaving Certificate of the Petitioner's father Shri Ajabsing as per Vigilance enquiry mentions his date of birth as 10th April, 1950, his date of admission as 6th June, 1964 and caste as '*Rajput*' and not '*Rajput Bhamta*'. Also with respect to the school leaving certificate of his father Ajabsing Waman Patil, it has been found that when the vigilance squad made inquiry in respect of the said documents, it has been mentioned in the said documents that the caste is '*Rajput*' and not '*Rajput Bhamta*'.

20 In this view of the matter the committee has rejected the documents submitted by the Petitioner with respect to his father, grandfather, the claim in respect of real brother Suryasing being already invalidated earlier.

21 With respect of the contention of the Petitioner that the Enquiry Report dated 25th July, 2003 of Vigilance Squad of the then committee in the case of Suryasingh not being considered, the Respondent committee has stated that even the then committee had rejected the said report. Besides, it is submitted that under Rule 13(2) (b) of the Maharashtra Scheduled Castes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Rules, 2012, the findings of the Vigilance Officer do not bind the Committee nor can it be used as proof in support of his caste claim.

22 With respect to the claim of the Petitioner on the basis of documents of blood relatives from father's side, viz., Narendrasing Prakash Patil, the purported holder of the caste validity certificate, the committee has found that Petitioner has not submitted any valid revenue document establishing the blood relations with Narendrasing Patil. The committee has also stated that even if the Petitioner had submitted proof establishing blood relation with Narendrasing, considering the aforesaid findings with respect to Grandfather and Father it would not have been possible for the committee to issue caste validity certificate to the Petitioner only on that basis.

23 The then committee while considering the case of Petitioner's brother Suryasingh, has personally verified the original record with respect of village form No.14 issued by the Tahasildar, Amalner in the Petitioner's grandfather's name Waman, and it has observed that the caste is mentioned as '*Rajput*' and not '*Rajput Bhamta*' and the date of birth is mentioned as 9th October, 1923. Also in respect of the school leaving certificate of the grandfather submitted by the Petitioner, where the caste

is mentioned as 'Rajput Bhamta', date of birth is mentioned as 16th July 1923 and date of admission is mentioned as 2nd May 1929, it is stated that when vigilance squad made inquiry in respect of the said school leaving certificate, they have noticed that the caste mentioned in the said document is only 'Rajput' and not 'Rajput Bhamta'. It is stated that the entries made in the school and revenue proofs of the grandfather submitted by the Petitioner are from pre-independence period and the same are very important entries.

24 In this context, the decision of the Hon'ble Supreme Court in the case of **Madhuri Patil V/s. Additional Commissioner, Tribal Department AIR 1995 SC (94)** becomes relevant. It is observed that, "*It is obvious that Judicial Magistrate has no Jurisdiction to issue Cast certiciate and it is a void certificate. The entries in the school certificate of the father of the appellants Laxman Patil, being pre-independence period, it bears "great probative Value" wherein he declared himself to be "Hindu Koli which is now recognized as a backward class. The Caste affirmation certificate¹³ issued by the samaj Caste Association Consists of these very communities who seek to get the status as Scheduled Tribes. It also does not, therefore¹³ bear any probative value school certificates and College certificates in favour of the appellants are the subject of enquiry, therefore, do not bear any value and independently their status is to be considered.*"

25 With respect to the grievance of the Petitioner that the vigilance enquiry report dated 25th July, 2003 was not considered by the committee, we are in agreement with the view expressed by the Respondent-Scrutiny Committee. Moreover, even the then Scrutiny Committee had rejected the said vigilance report.

26 It would also be pertinent to quote from the findings of the caste scrutiny committee in english as per official translation as under :-

“Point No. 2 :-

“As per Section 8 of The Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis) Nomadic Tribes, other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000, the responsibility of proving the claim, is of the applicant. The applicant, in support of his claim in respect of his caste, has submitted belowmentioned documents.

- 1. The applicant Vijaysingh Ajabsingh Patil himself submitted the School Leaving Certificate, (bearing) Gen. Reg. No. 10395, 20/2/99 issued by the Head Master, Century Rayon School, Shahad Thane, to him. It has been mentioned therein as, caste- Rajput Bhamta (Maga), place of Birth – Jaitpeer, Date of Birth 28/7/1981, Date of Admission in School 14/6/93. However, as the said document is post the deemed date, the said document can not be held valid as proof in support of the applicant's claim in respect of his caste.*
- 2. The applicant submitted the School Leaving Certificate bearing Gen. Reg. No. 7915, dt. 11 June 1968 issued by the Superintendent, K. E. Society, Pratap High School, Amalner, (Dist. Jalgaon,) to his father Patil Ajabsingh Waman. It has been mentioned therein as Date of Birth- 10/4/1950, Place of Birth- Tal. Amalner. When the Vigilance Squad made enquiry in respect of the said document, it has been mentioned in the said document, Date of Admission in School as 6/6/1964. Similarly, Caste- Rajput has been mentioned. However, as caste has not been mentioned as 'Rajput Bhamta' in the said document, the said document can not be held valid as proof in support of the applicant's claim in respect of his caste.*

3. *The applicant submitted Village Form No. 14 issued by Tahsildar Amalner, to his grand father, Waman Gulaba Khanderao. It has been mentioned therein as Caste- Rajput, Date of Birth 9/10/1923. After verifying the original record of the said document and the claim of the applicant's real brother, Suryasingh Ajabsingh Patil, for he belonging to the caste Rajput Bhamta, the then Committee verified documentary proofs in the matter of Suryasingh Ajabsingh Patil and declared his claim in respect of the caste Rajput Bhamta, as invalid. After perusing the said file, the then Committee had informed the Tahsil Office, Amalner, having the custody of the Village Form No. 14, which was issued to Waman Gulaba Khanderao, by Tahsildar, Amalner, to remain personally present with the original record, before the Committee. In connection therewith, on the date 20/11/2018, Clerk, Shri. Sandeep Patil from Tahsildar Office, Amalner, was present for the hearing of the Committee. He produced the original record of Village Form No. 14 of Waman Gulaba Khanderao, before the Committee. When the then Committee perused the said record, it was noticed that caste of Waman Gulaba Khanderao was mentioned as Rajput and his date of birth as 9/10/23 in the roznama. However, as caste has not been mentioned as 'Rajput Bhamta' in the said document, the said document can not be held valid as proof in support of the applicant's claim in respect of his caste.*
- 4) *The Applicant has submitted the School Leaving Certificate bearing Reg. No. 66, Book No. 1 dated – 28th January, 2000, of his grand father Waman Gulaba Patil issued by Central Pre- Primary School, Jaitpor, Tal. Amalner, District Jalgaon wherein, the cast is mentioned as Rajput Bhamta, date of birth is mentioned as 26/7/1923 and date*

of admission in school is 2/5/1929. On making enquiry in respect of the said document through Vigilance Squad, it is found that in the original General Register of the said document, the caste is mentioned as 'Rajput'. Similarly, in the Enquiry Report dated- 04/03/2021 of the Vigilance Squad, the date of birth is mentioned as 16/07/1923 and date of admission in school is mentioned as 02/05/1929. From this, it is noticed that, the Applicant, by submitting bogus/fabricated school leaving certificate of his grand father, having the entry of caste as 'Rajput Bhamta', to the committee, has tried to mislead the committee. Therefore, the said document cannot be held as valid proof in support of the claim of caste, made by the Applicant.

- 5) *The Applicant has submitted the xerox copies of an extract from his service book and his father's service book wherein, the entry (of caste) is made as "Rajput Bhamta". In this regard, it is mentioned that the officer / employee of the concerned office prepares the said document i.e. the service book of the employee concerned after he joins the service. While making entries in the said service book, the entry of the caste is made in the service book on the basis of the information submitted by the employee joining the service and on the basis of the caste certificate. However, the caste certificate cannot be held as valid proof for proving the caste of the Applicant. Thus, the xerox copies of the pages of service book, cannot be held as valid proof in support of the claim of caste of the Applicant.*
- 6) *The Applicant has submitted his Enquiry Report dated – 25/07/2003 of the Vigilance Squad of the then committee of the year-2003.*

In this regard, it is mentioned that, the Vigilance Squad assists the verification committee for making zonal enquiry. As per section 13 (B) the findings mentioned and the opinions expressed by the

Vigilance Officer, whatever it may be, will not be binding on the Verification Committee and it is mentioned therein that the same cannot be used as proof in support of the claim for belonging to the Scheduled Castes, Boudha converted to Scheduled Castes, Denotified Castes, Nomadic Tribes, other Backward Classes or Special Backward category. Therefore, the report of Vigilance Squad submitted by the Applicant cannot be held as valid proof in support of the claim of caste.

....

Point No. 3

The Applicant has not submitted the valid Revenue documents, establishing the blood relations from father's side, with Patil Narendrasingh Prakash, the holder of the caste validity certificate and therefore, as the relation of the Applicant does not match with the Caste Validity Certificate holder, the said caste validity certificate cannot be held as valid proof.

Moreover, even if, the Applicant had submitted the proofs establishing blood relation with Patil Narendrasingh Prakash, then also, only after considering the facts mentioned in point No. 2 above, it is clarified here that, it would not have become possible for the committee to issue Caste Validity Certificate to the Applicant only on the basis of the caste validity certificate of Patil Narendrasingh Prakash.

Moreover, the Hon'ble Supreme Court, in the matter viz. Raju Ramsing Vasave v/s Mahesh Devrao Bhivapurkar, Civil Appeal No. 5308/2008, in paragraph No. 27, has observed as follows:-

27. "We do not mean to suggest that an opinion formed by the Committee as regards the (a)..e of the near relative of the applicant would be wholly irrelevant. But, at

(a...) (...a)
Thus
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SSP/Borey/Mugdha

14/18

the same time it must be pointed out that only because, by mistake or otherwise a member of his family has been declared to be belonging or a member of the Scheduled Tribe, the same by...'(a)' would not be conclusive in nature so as to bind another committee while examining the case of other members of the family in some detail. If it is found that granting a certificate in favour of a member of a family *vital evidence had been ignored, it would be open to the Committee to arrive at a different finding.*"

Even the Judgment of the Hon'ble Supreme Court is corroborating the aforesaid points.

Point No. 4

As discussed in detail, in aforesaid point no. 1 and 2, the Applicant has claimed that he belongs to the caste viz. Rajput Bhamta, mentioned at Sr. No. 10 in the category of the denotified castes notified by the Government of Maharashtra. Moreover, from the documentary proofs produced by the Applicant, the residence of the Applicant in Maharashtra prior to the deemed date, is proved.

However, the Applicant has submitted the Village Form No. 14 issued by the Tahsildar, Amalner, to his grand father Waman Gulaba Khaderao. Wherein, the caste is mentioned as Rajput and Date of Birth is mentioned as 09/10/1923. The then committee personally verified the original record of the said document in the matter of Applicant's real brother by name Suryasingh Ajabsing Patil and it has come to the notice of the committee that the caste-Rajput is mentioned therein and Date of Birth is mentioned as 09/10/1923.

Further, the Applicant has submitted the School Leaving Certificate of his grand-father by name Waman Gulaba Patil. Wherein, the caste is mentioned as Rajput Bhamta, Date of Birth is mentioned as 16/07/1923 and Date of Admission in school is mentioned as 02/05/1929. When the Vigilance Squad made enquiry in respect of the said School Leaving Certificate, they noticed that the caste

mentioned in the said document is only 'Rajput' and not Rajput-Bhamta. The entries made in the school and Revenue proofs of the grand father, submitted by the Applicant alongwith the Application are from the pre- independence period and the same are very important entries.

In this regard, it is mentioned in the Order dated-02/09/1994 of the Hon'ble Supreme Court in writ petition No. 5854/1994, Madhuri Patil versus Additional Commis...(a) ; Tribal Department, as under. "It is obvious that Judicial Magistrate has no Jurisdiction to issue Cast certificate and it is a void certificate. The entries in the school certificate of the father o^(a) appellants Laxman Patil, being pre-independence period, it bears "great probative Value" wherein he declared himself to be "Hindu Koli which is now recognized as a backward class. The Caste affirmation certificate issued by the samaj Caste Association Consists of these very communities who seek to get the status as Scheduled Tribes. It also does not, therefore bear any probative value school certificates and College certificates in favor of the appellants are the subject of enquiry, therefore, do *not bear any value and independently their status is to be considered.*"

The Applicant has claimed that he belongs to the Rajput Bhamta Caste. The Applicant has submitted the School Leaving Certificate of father and grandfather and grand-father's village Form No. 14, and in the said documents, the caste is mentioned as 'Rajput'. From this, it is seen that the forefathers of the Applicant did not belong to the caste-Rajput Bhamta but they belonged to the Rajput caste and the caste 'Rajput' has not been mentioned in the list of denotified castes. Therefore, the aforesaid principle of the Hon'ble Supreme Court is applicable to this matter, From this, it is found that the Applicant does not belong to 'Rajput Bhamta' Caste."

27 No fault can be found with the findings of the Scrutiny Committee. Based on clear evidence as recorded in the Impugned Order, we find that Form No.14 in the name of the grand-father as well as the

School Leaving Certificates of grand-father refer to the caste as “Rajput” and not “Rajput Bhamta”. Even the father’s School Leaving Certificate mentions the caste as ‘Rajput’ and not ‘Rajput Bhamta’. Real brother Suryasingh’s caste certificate has been invalidated earlier. No documents in respect of cousin uncle Narendrasing have been placed on record. With respect of the Petitioner’s affinity test, the committee has clearly found that no similarity is seen as per the affinity test given by the Petitioner during the course of the hearing on 10th March, 2021 and the same has not been held to be valid for the Petitioner’s claim to ‘Rajput Bhamta’ caste. Even otherwise, as held in the case of **Anand Katole v/s. The Committee for Scrutiny and Verification of tribe claim [2011 (6) Mh. L. J. (SC) 919]**, the affinity test may not be regarded as a litmus test for establishing the link of the applicant with a Scheduled Tribe. Paragraph 22 (ii) is relevant and is quoted as under:-

“(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 then, 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, 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 tribes’ 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.”

28 The caste scrutiny committee has also observed that the forefathers of the Petitioner did not belong to '*Rajput Bhamta*' caste, but they belong to Rajput caste which has not been mentioned in the list of denotified castes. It is also observed by the committee with respect to the affinity test given by the Petitioner during the course of the hearing that there is no similarity seen in respect of the Petitioner with respect to the '*Rajput Bhamta*' caste. The committee has observed that the Petitioner's grandfather had studied at Amalner, District Jalgaon and his father has studied upto 11th Standard and he retired after serving with the Government of Maharashtra. The committee has observed that therefore the forefathers of the Petitioner were highly educated. On the basis of the aforesaid findings, the committee has come to a conclusion that the Petitioner does not belong to '*Rajput Bhamta*' caste and has declared the caste claim of the Petitioner as invalid. Considering the aforesaid incontrovertible findings of fact by the caste scrutiny committee, we are not inclined to interfere with the order dated 15th March 2021 of the District Caste Certificate Verification Committee, Thane.

29 Hence the following order:

- A] The Petition is accordingly dismissed with no order as to costs.
- B] All interim orders also stand vacated.

[ABHAY AHUJA, J.]

[K.K.TATED, J.]