



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

WRIT PETITION No.3366 OF 2020 WITH  
WRIT PETITION No.3464 OF 2020

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WRIT PETITION No.3366 OF 2020

Mr. Dilip S/o Nagorao Dhanorkar,  
Age-49 years, Occ. Assistant Teacher,  
R/o. Gurudeo Nagar, Burande Lay-out,  
Post Manas Mandir, Wardha, Tahsil Wardha,  
District- Wardha – 442 001.

: PETITIONER

...VERSUS...

1. The State of Maharashtra,  
through its Chief Secretary,  
6<sup>th</sup> Floor, Main Building,  
State Secretariate, Mumbai, PIN 400032,  
Telephone Nos. 022-22025042, 022-22028762,  
Email Id: chiefsecretary@maharashtra.gov.in
2. Scheduled Tribe Certificate Scrutiny  
Committee, Nagpur Division,  
Nagpur, through its Member Secretary,  
Adiwasi Vikas Bhawn, Amravati Road,  
Giripeth, Nagpur PIN 440001,  
Phone No. 07122560031,  
Email Id [tcscngp.mah@nic.in](mailto:tcscngp.mah@nic.in)
3. Zilha Parishad Wardha,  
through Chief Executive Officer,  
Office at Zilha Parishad Wardha,  
Administrative Building,  
Civil Lines, Wardha PIN 4420001,  
e-mail Id: ceozpwardha@yahoo.co.in  
Ph. No. 07152-240231, Fax 07152-241509.
4. District Education Officer (Primary),  
Zilha Parishad Wardha,

Administrative Building,  
Civil Lines, Wardha, PIN 4420001. : RESPONDENTS

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Mr. A.S. Mardikar with Mr. S.D. Borkute, Advocate for Petitioner.  
Mrs. M.S. Naik, Assistant Government Pleader for Respondent Nos.1 and 2.  
Mr. D.R. Bhojar, Advocate for Respondent Nos.3 and 4.  
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**WITH**

**WRIT PETITION No.3464 OF 2020**

Mr. Vilas S/o Nagorao Dhanorkar,  
Age-45 years, Occ. Assistant Teacher,  
R/o. Vikas Nagar, Kondharli,  
Post Kondhali, Tahsil Katol,  
District- Nagpur – 441 103. : PETITIONER

**...VERSUS...**

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=====  
Mr. A.S. Mardikar with Mr. S.D. Borkute, Advocate for Petitioner in  
both petitions.

Mrs. M.S. Naik, Assistant Government Pleader for Respondent Nos.1 and 2  
in both petitions.

Mr. D.R. Bhoyar, Advocate for Respondent Nos.3 and 4 in both  
petitions.

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CORAM : SMT. M.S. JAWALKAR AND  
NANDESH S. DESHPANDE, JJ.  
RESERVED ON : 10<sup>th</sup> FEBRUARY, 2026.  
PRONOUNCED ON : 05<sup>th</sup> MARCH, 2026.

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

1. Rule. Rule made returnable forthwith. Heard finally  
with the consent of the parties.

2. Both the petitioners, Dilip Nagorao Dhanorkar (Writ  
Petition No.3366/2020) and Vilas Nagorao Dhanorkar (Writ  
Petition No.3464/2020), have filed these writ petitions challenging  
the common order dated 11.09.2020 passed by respondent No. 2,  
the Scheduled Tribes Caste Certificate Scrutiny Committee, Nagpur  
(for short, 'the Committee'), rejecting their caste claims as  
belonging to Halba/Halbi Scheduled Tribe. Both petitioners further  
challenge order dated 31.12.2019, passed by respondent  
No. 3, Zilla Parishad, Wardha, whereby they were removed from

their respective permanent posts reserved for Scheduled Tribes and reappointed on supernumerary posts for a fixed period of 11 months.

3. The petitioner in Writ Petition No.3366 of 2020 is Dilip Nagorao Dhanorkar and the petitioner in Writ Petition No.3464 of 2020 is Vilas Nagorao Dhanorkar. Both are brothers serving as Assistant Teachers against posts reserved for Scheduled Tribes. Both petitioners' employers submitted proposals for verification of caste claims before the Committee on 20.07.2013, received by the Committee on 27.09.2013. The claims were invalidate by the Scrutiny Committee vide order dated 11/9/2020 which is challenged in the present writ petition.

4. The petitioners submitted the following pre-Constitutional documents in support of their caste claims :

Sr. No	Document Type	Name	Relation	Date	Caste
1	Admission Extract	Narayan Parasram Halba	Grandfather	31.03.1911	Halba
2	School Leaving Certificate	Narayan Parasram Halba	Grandfather	30.06.1921	Halba
3	Birth Extract (Kotwar Panji)	Baynabai d/o Narayan Parasram Halba	Paternal Aunt	30.11.1939	Halba

5. Learned counsel for the petitioners submit that the

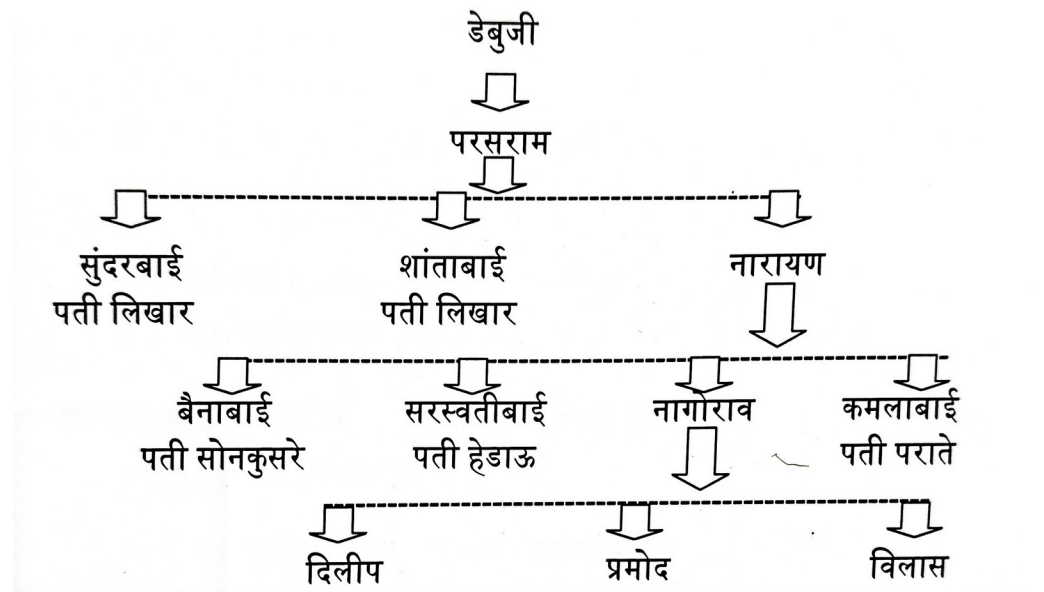
impugned order is perverse and suffers from non-application of mind. The Committee declared pre-Constitutional documents dating back to 1911 as forged or fabricated without following the procedure under the Indian Evidence Act, 1872 and without presuming the genuineness of certified copies of public documents as mandated under Section 79 thereof. It is further submitted that the “Koshti” entries denote an occupation of weaving and not a caste, Koshti having been introduced as an independent caste only in 1995 vide Government Resolution in the Special Backward Class category.

6. Learned counsel for the petitioners contend that the Committee’s reliance on area restriction under the Constitution (Scheduled Tribes) Order, 1950 is wholly untenable, as the Scheduled Castes and Tribes Orders (Amendment) Act, 1976, which came into force on 20.09.1976, repealed the said restriction under Section 4 thereof, making Halba/Halbi a Scheduled Tribe for the entire State of Maharashtra.

7. Learned counsel for the petitioners strenuously contend that rejection solely on the ground of failure of the affinity test is unsustainable, as no expert anthropological enquiry was conducted and the documentary evidence spanning multiple generations conclusively establishes tribal identity, rendering the affinity test

irrelevant. It is also submitted that the petitioners have placed on record an affidavit of the local Bhat, Bhagwat Ghanshyam Wagh, sworn-in on 05.09.2017, verified by the Archaeological Survey of India, tracing the genealogy of the petitioners' family as belonging to "Halba" Scheduled Tribe, which the Committee has failed to consider.

8. Reliance is placed on **Kumari Madhuri Patil Vs. Addl. Commissioner, Tribal Development, (1994) 6 SCC 241**; **Dayaram Vs. Sudhir Batham, (2012) 1 SCC 333**; **Anand Vs. Scrutiny Committee; Priya Parate, 2013 (1) MHLJ 180**; **Apoorva Nichale Vs. Regional Caste Certificate Scrutiny Committee, 2010 (6) Mh.L.J. 401**; **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra, (2023)**; and **FCI Vs. Jagdish Balaram Bahira, (2017) 8 SCC 670**.



9. Per contra, Mrs. M.S. Naik, learned Assistant Government Pleader for respondent Nos. 1 and 2 filed reply and supported the order passed by the Committee. The Vigilance Cell found the following documentary evidence in respect of blood relatives of the petitioners :

Sr. No	Name	Relation	Evidence	Caste Recorded	Date
1	Narayan Parasram Dhanorkar	Grandfather	Admission Register Extract No. 1300	Halba	1911 (discrepancy in handwriting noted)
2	Narayan Parasram Halba	Grandfather	Kotwar Panji	Halba	1939 (original not found at Tahsil Office, Arvi)
3	Nagorao Narayan Dhanorkar	Father	Admission Register No.1434	Koshti	1950
4	Binabai Narayanrao	Paternal Aunt	Admission Register No. 1322	Koshti	1946
5	Saraswati Narayan Dhanorkar	Paternal Aunt	Admission Register No. 1424	Koshti	1950
6	Kamala Narayan Dhanorkar	Paternal Aunt	Admission Register No. 1479	Koshti	1954

10. It is further submitted on behalf of the respondents that the Vigilance Cell examined certain witnesses, including Sukhdev Ganpat Dhanorkar, a blood relative of the petitioners, who stated that the family belongs to the "Koshti" community. It is

further submitted that Snehal Dilip Dhanorkar, daughter of petitioner Dilip Nagorao Dhanorkar, has obtained a Caste Validity Certificate for “Koshti” under the Special Backward Class, supported by an affidavit of the said petitioner dated 18.04.2016 and the School Leaving Certificate of the petitioners’ father dated 09.07.1950 recording caste as “Koshti”. It is submitted that “Koshti” is an independent caste enlisted in the Special Backward Classes vide Government Resolution dated 07.12.1994 and bears no similarity with the social and cultural traits of Halba/Halbi Scheduled Tribe. Reliance is placed on **Palghat Jilla Thandan Saamudhaya Samrakshna Samithi and another Vs. State of Kerala and another (1994) 1 SCC 359** and **Milind Katware Vs. State of Maharashtra, 1987 Mh.L.J. 572**.

11. Learned counsel for respondent Nos. 3 and 4 supported the impugned orders. It is submitted that both petitioners were appointed against posts reserved for Scheduled Tribes on the condition of producing valid caste certificates and that the Committee vide common order dated 11.09.2020 held that the petitioners belong to “Koshti” caste and not “Halba” Scheduled Tribe. In view of judgment in **Chairman & Managing Director, FCI Vs. Jagdish Balaram Bahira, (2017) 8 SCC 670** and Government Resolution dated 21.12.2019, the order dated 31.12.2019 placing

both petitioners on supernumerary posts is legal and valid.

12. We have carefully considered the submissions of learned counsel for the parties and have perused the documents placed on record. The petitioners have submitted pre-Constitutional documentary evidence dating back to 1911. The Admission Extract of the petitioners' grandfather Narayan Parasram Halba dated 31.03.1911, his School Leaving Certificate dated 30.06.1921, and the birth extract (Kotwar Panji) of Baynabai dated 30.11.1939 all consistently record caste as "Halba". The affidavit of the local Bhat, Bhagwat Ghanshyam Wagh, sworn-in on 05.09.2017 and verified by the Archaeological Survey of India, further traces the genealogy of the petitioners' family as belonging to "Halba" Scheduled Tribe. As held by the Hon'ble Supreme Court in **Kumari Madhuri Patil Vs. Addl. Commissioner, Tribal Development, (1994) 6 SCC 241; Dayaram Vs. Sudhir Batham, (2012) 1 SCC 333; and Anand Vs. Committee for Scrutiny and Verification of Tribe Claims (2012) 1 SCC 113**, pre-Constitutional documents carry highest probative value and must be accorded due consideration while examining caste claims. The Committee has, however, rejected the aforesaid documents on the following grounds :

(a) The claim is rejected on the ground that the petitioners failed to establish the affinity test, as they could not demonstrate

knowledge of the distinctive customs and traditions of the community; furthermore, the evidence on record fails to place the petitioners' family within the geographical boundaries traditionally associated with the community's origin.

(b) That the Admission Extract dated 31.03.1911 suffers from a discrepancy in handwriting, and the Kotwar Panji dated 30.11.1939, initially stated to be untraceable at the Tahsil Office, Arvi, was, upon being subsequently obtained, also rejected on the ground of handwriting discrepancy.

(c) That the documents relating to the petitioners' father and paternal aunts record caste as "Koshti" and a witness, Sukhdev Ganpat Dhanorkar, a blood relative, stated that the family belongs to the "Koshti" community; and

(d) That Snehal Dilip Dhanorkar, daughter of petitioner Dilip Nagorao Dhanorkar, has obtained a Caste Validity Certificate for "Koshti" under the Special Backward Class category, supported by an affidavit of the said petitioner dated 18.04.2016.

We proceed to examine each of the aforesaid grounds.

13. As regards ground (a), the Committee has rejected the petitioners' claims primarily on the ground of failure to establish the affinity test. It is a settled principle of law that when overwhelming pre-Constitutional documentary evidence conclusively establishes

tribal identity spanning multiple generations, the affinity test becomes irrelevant and superfluous. The affinity test mandates expert anthropological enquiry by recording evidence of the customs, usages, and practices of genuine tribal persons. Admittedly, no such expert anthropological enquiry has been conducted in the present case. The Hon'ble Supreme Court in **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra (2023) 16 SCC 415** has categorically held that the affinity test is not a litmus test and cannot be conclusive either way, and that authentic pre-Constitutional documents establishing membership of a tribal community cannot be discarded. The affinity test at best can supplement documentary evidence but can never supplant it. Rejection of the claims solely on the ground of failure of the affinity test, without proper expert enquiry and in the face of conclusive documentary evidence, is manifestly perverse and cannot be sustained in law.

14. Further, Parliament enacted the Scheduled Castes and Tribes Orders (Amendment) Act, 1976 on 18.09.1976, published in the Official Gazette on 20.09.1976, whereby the provision of area restriction imposed by the Constitution (Scheduled Tribes) Order, 1950 was expressly repealed under Section 4 thereof. The Scrutiny

Committee, therefore, could not have had recourse to the area restriction envisaged by the 1950 Order, and any reliance thereon is wholly untenable and deserves to be rejected outright.

15. As regards ground (b), the Scrutiny Committee has discarded the Admission Extract dated 31.03.1911 solely on the premise of an alleged discrepancy in handwriting. Such an approach is legally untenable. It is well settled that the Scrutiny Committee is not having any expertise to adjudicate upon questions relating to handwriting or alleged fabrication. In the absence of any opinion from a qualified handwriting expert, a conclusion finding of interpolation or forgery based merely on visual comparison is impermissible in law. This Court, in a catena of judgments, has consistently observed that rejection of a document on the basis of variance in handwriting, without any supporting material, is wholly unsustainable and amounts to recording findings without jurisdictional foundation. Insofar as the Kotwar Panji dated 30.11.1939 is concerned, the record reveals an inconsistent approach on the part of the Committee. Initially, it was observed that the original entry was not traceable in the office of the Tahsildar, Arvi. Subsequently, upon securing the very document, the Committee proceeded to reject it on the same ground of handwriting variation. As held by the Hon'ble Supreme Court in

**Anand Vs. Committee for Scrutiny (supra) and Kumari Madhuri Patil Vs. Addl. Commissioner, Tribal Development, (1994) 6 SCC 241**, the oldest documents carry the greatest probative value and must be given precedence over subsequent entries; any attempt to discard them without cogent, expert-based reasons is impermissible in law.

16. As regards ground (c), the Committee has placed undue reliance on contra entries showing caste as “Koshti” in the school and revenue records of the petitioners’ father and paternal aunts. As held by this Court in **Priya Pravin Parate Vs. Scheduled Tribes Caste Certificate Scrutiny Committee, Nagpur and others 2013 (1) Mh.L.J. 180**, Halbis in the relevant districts who were engaged in the profession of weaving were called “Koshti”. “Koshti” denotes an occupation and not a caste, having been introduced as an independent caste only in 1995. The contra entries pertain to the period 1946–1954, a time when “Koshti” had no existence as an independent caste, and are therefore attributable to occupation and not caste.

17. This position is further fortified by the statement of witness Bhushan Dhanorkar, examined by the Vigilance Cell, who stated that the surname Dhanorkar; is common to both the Halba and Navi communities, and the statement of witness Rajendra

Dhanorkar, who categorically stated that he belongs to the Halbi caste and that “Koshti” was merely their profession. Significantly, none of the witnesses examined by the Vigilance Cell have any personal knowledge of the petitioners themselves, which renders their statements of hardly any evidentiary value. The self-serving oral statement of Sukhdev Ganpat Dhanorkar, standing alone, cannot override documentary evidence spanning multiple generations.

18. As regards ground (d), the Caste Validity Certificate for “Koshti” obtained by Snehal Dilip Dhanorkar was predicated upon an affidavit sworn by petitioner Dilip Nagorao Dhanorkar solely in the context of his daughter’s caste claim and cannot be construed as a conclusive admission as to the caste of the entire family. Each caste claim is required to be adjudicated on its own merits on the basis of the documentary evidence placed before the Committee. The existence of a validity certificate for “Koshti” obtained by the daughter of one of the petitioners, founded upon such an affidavit, cannot override the pre-Constitutional documents establishing the petitioners “Halba”tribal identity.

19. We are, therefore, of the considered opinion that the common order dated 11.09.2020 passed by the Committee and the order dated 31.12.2019 passed by respondent No. 3, impugned in

these petitions, are unsustainable in law and are liable to be quashed and set aside. Accordingly, we pass the following order :

**ORDER**

- (i) Both the Writ Petitions are allowed.
- (ii) The impugned common order dated 11.09.2020 passed by the Scheduled Tribes Caste Certificate Scrutiny Committee, Nagpur, rejecting the caste claims of both petitioners is hereby quashed and set aside.
- (iii) The impugned order dated 31.12.2019 passed by Respondent No. 3, Zilla Parishad, Wardha, removing both petitioners from their respective permanent posts and placing them on supernumerary posts is hereby quashed and set aside.
- (iv) The respondent No.2 Scrutiny Committee, Nagpur is directed to issue validity certificates to both petitioners certifying them as belonging to Halba Scheduled Tribe within a period of four weeks from the date of receipt of a copy of this order.
- (v) The respondent Nos. 3 and 4 are directed to

reinstate both petitioners to their respective permanent posts forthwith upon issuance of the validity certificates.

(vi) Rule is made absolute in the above terms with no order as to costs.

**(NANDESH S. DESHPANDE, J.)**

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

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