

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 12980 OF 2021

Rushikesh S/o. Somnath Boyane
Age : 18 years, Occu. Education,
R/o. Ujlamb, Tq. Chakur, Dist. Latur
Through power of attorney holder
Somnath S/o. Rangnath Boyane
Age 49 years, Occu. Service,
R/o. As above.

...Petitioners.

Versus

1. The State of Maharashtra
Through Secretary to Tribal Development
Department, Mantralaya, Mumbai.
2. The Schedule Tribe Certificate
Verification Committee, Aurangabad
Through its Deputy Director (R)
Dist. Aurangabad.
3. The Commissioner & Competent Authority,
Commissionerate of Common Entrance Test Cell,
Government of Maharashtra,
8th Floor, New Excelsior Building,
A.K. Naik Marg, Fort, Mumbai.

....Respondents.

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Mr. S.M. Vibhute, Advocate for petitioner.

Mr. P.S. Patil, AGP for respondents Nos. 1 and 2.

Mr. M.D. Narwadkar, Advocate for respondent No. 3.

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WITH

WRIT PETITION NO. 12977 OF 2021

Pooja D/o. Somnath Boyane
Age : 25 years, Occu. Education,

R/o. Ujlamb, Tq. Chakur, Dist. Latur
Through power of attorney holder
Somnath S/o. Rangnath Boyane
Age 49 years, Occu. Service,
R/o. As above.

...Petitioners.

Versus

1. The State of Maharashtra
Through Secretary to Tribal Development
Department, Mantralaya, Mumbai.
2. The Schedule Tribe Certificate
Verification Committee, Aurangabad
Through its Deputy Director (R)
Dist. Aurangabad.
3. The Principal,
Vasantdada Patil Ayurvedic College,
Opp Income Tax Office, Sangli Miraj Road,
South Shivaji Nagar, Sangli,
Dist. Sangli.
4. The Registrar,
Maharashtra University of Health
Sciences, Dindori Road, Mhasrul/
Nashik, District-Nashik.
5. The Principal,
Rajarshi Shahu College
Latur, Tq. & Dist. Latur.

....Respondents.

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Mr. S.M. Vibhute, Advocate for petitioner.

Mr. P.S. Patil, AGP for respondent/State.

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WITH
WRIT PETITION NO. 12984 OF 2021

Dnyaneshwari D/o. Somnath Boyane

Age : 25 years, Occu. Education,
R/o. Ujlamb, Tq. Chakur, Dist. Latur
Through power of attorney holder
Somnath S/o. Rangnath Boyane
Age 49 years, Occu. Service,
R/o. As above.

...Petitioners.

Versus

1. The State of Maharashtra
Through Secretary to Tribal Development
Department, Mantralaya, Mumbai.
2. The Schedule Tribe Certificate
Verification Committee, Aurangabad
Through its Deputy Director (R)
Dist. Aurangabad.
3. The Principal,
Ashtang Ayurved College,
2062 (New) Vijaynagar Colony,
Sadashiv Peth, Pune,
Dist. Pune.
4. The Registrar,
Maharashtra University of Health
Sciences, Dindori Road, Mhasru/
Nashik, District-Nashik.
5. The Principal
Rajashri Shahu College,
Latur, Tq. & Dist. Latur

....Respondents.

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Mr. S.M. Vibhute, Advocate for petitioner.

Mr. P.S. Patil, AGP for respondent/State.

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**CORAM : R. D. DHANUKA &
S. G. MEHARE, JJ.**

DATED : 11/03/2022.

JUDGMENT :

1. Leave to amend is granted to implead the Scheduled Tribe Caste Validity Verification Committee as party respondent No. 4. Amendment be carried out immediately. Re-verification is dispensed with.

2. In Writ Petition No. 12980/2021, Rule. The learned AGP waives service for respondent Nos. 1 and 2. Learned counsel Mr. M.D. Narwadkar waives service for respondent No. 3. Rule made returnable forthwith. By consent of parties, heard finally.

3. By this petition filed under Article 226 of the Constitution of India, the petitioner seek writ of certiorari for quashing and setting aside the order dated 13.11.2021 passed by the respondent No. 2 – Caste Scrutiny Committee, invalidating the tribe claim of the petitioner for Koli Mahadev, Schedule Tribe.

4. The learned counsel for the petitioner has invited our attention to the genealogy annexed at page No. 18 of this petition and would submit that the petitioner is son of Somnath. He submits that this Court by judgment and order **dated 9th February 2022 in the case of Shivleela Sakharam Boyane Vs. The State of Maharashtra and Ors. in Writ Petition No. 1098/2022** filed by Shivleela Sakharam Boyane, who claims to be paternal relative of the father of the petitioner and

has granted caste validity certificate on the basis of certificate issued in favour of Somnath Boyane.

5. The learned counsel for the petitioner tenders a copy of the provisional selection list for MBBS and BDS round 2 issued by the Government of Maharashtra and would submit that the name of the petitioner is included at Sr. No. 25846 under S.T. category. He submits that the judgment of this Court in case of **Shivleela Sakharam Boyane** supra which allowed petition after adverting to the case of **Apoorva d/o. Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee and Ors. Reported in 2010 (6) Mh.L.J. 401** would apply to the facts of this case. He submits that he has no objection if directions issued in operative part of the said judgment, more particularly, in clause (ii) that “The said validity shall be subject to the decision that would be taken by the Committee in the proceedings reopened of the validity holders relied by the petitioner” is passed in this matter also. The statement is accepted.

6. The learned AGP on the other hand submits that the Caste Scrutiny Committee has already issued show cause notice to said Somnath Boyane for withdrawing the caste validity certificate granted

in his favour on the ground that entries of caste recorded in the school record of Somnath, Gangaram, Sakharam and Rangnath are interpolated and the said proceedings are pending. He submits that in view of this fact, no interference with the order passed by the Caste Scrutiny Committee is warranted in the facts of this case.

7. The learned AGP does not dispute that the Caste Scrutiny Committee has already granted caste validity certificate in favour of Somnath, father of the petitioner as he belongs to Koli Mahadev, Scheduled Tribe. This Court by the aforesaid judgment dated 9th February 2022, after considering the arguments of both the sides and after adverting to the judgment in the case of **Apoorva** supra has directed the Caste Scrutiny Committee to issue validity certificate to the petitioner therein of Koli Mahadev, Scheduled Tribe. This Court, however, made it clear that the said validity shall be subject to the decision that would be taken by the Committee in the proceedings reopened of the validity holders relied by the petitioner.

8. In view of the fact that the petitioner's name is included in the provisional select list issued by the Government of Maharashtra for admission under S.T. category, we are inclined to pass the order on the same line on which this Court has passed on 9th February 2022. Hence, the following order.

ORDER

- (I) Writ Petition No.12980/2011 is allowed. The Committee shall issue validity certificate to the petitioner of Koli Mahadev Scheduled Tribe which shall be subject to the outcome of the decision that would be taken by the Caste Scrutiny Committee in the proceedings reopened of the validity holders relied upon by the petitioner.
- (II) The admission if granted by the State of Maharashtra to the petitioner as per the list produced before this Court for perusal, that would be subject to the order that may be passed by the Caste Scrutiny Committee in the proceedings of show cause notices issued to the validity holders which are relied upon by the petitioners in this case. The petitioner shall not claim any equity on the basis of this order in future if the caste validity certificate of the validity holders which are relied upon by the petitioner is recalled by the Caste Scrutiny Committee.
- (III) The Caste Scrutiny Committee is directed to issue caste validity certificate in favour of the petitioner forthwith. The learned AGP agrees to convey this order for information and compliance to Caste Scrutiny Committee forthwith.
- (IV) Insofar as Writ Petition No. 12977/2021 filed by Pooja

Somnath Boyane and Writ Petition No. 12984/2021 filed by Dnyaneshwari Somnath Boyane are concerned this decision would not apply and those writ petitions would be decided independently on its own merits.

- (V) Respondents are permitted to file affidavit in reply in those petitions within two weeks from today and shall produce the original record and proceedings filed before the Caste Scrutiny Committee for perusal of this Court on the next date and as and when the matters would be listed on board. The petitioners would be at liberty to take inspection of the original record and proceedings after giving 48 hours advance notice to the learned AGP. Rejoinder, if any, shall be filed within one week thereafter. Place the matters on board for admission on 11th April 2022.

[S. G. MEHARE, J.]

[R. D. DHANUKA, J.]

ssc/