

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

Writ Petition No. 1145 / 2021

Harshada d/o Gulchand Pithale,
 Age 17 years, Occu. Education,
 U/g of Natural Guardian father
 Gulchand s/o Murlidhar Pithale,
 R/o. Vishnu Nagar, Aurangabad.
 Tq. and Dist. Aurangabad.

...Petitioner

Versus

1. The State of Maharashtra,
 Through its Secretary,
 Medical Education Department,
 Mantralaya, Mumbai.
2. The Scheduled Tribe Certificate
 Verification Committee Aurangabad,
 Through its Member Secretary,
 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 – 32.

...Respondents

WITH

Writ Petition No. 1602 / 2021

Ashwini d/o Gulchand Pithale,
 Age 25 years, Occu. Education,
 R/o. Vishnu Nagar, Aurangabad.
 Tq. and Dist. Aurangabad.

...Petitioner

Versus

The Scheduled Tribe Certificate
 Verification Committee Aurangabad,
 Through its Member Secretary,
 Aurangabad.

...Respondent

WITH

Writ Petition No. 1764 / 2021

Snehal d/o Raosaheb Pithale,
Age 21 years, Occu. Education,
R/o. Vishnu Nagar, Aurangabad.
Tq. and Dist. Aurangabad.

...Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary,
Medical Education Department,
Mantralaya, Mumbai-32.
2. The Scheduled Tribe Certificate
Verification Committee Aurangabad,
Through its Member Secretary,
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 – 32.

...Respondents

— — —

Mr. Pratap V. Jadhavar, Advocate for the Petitioner in all petitions.

Mr. A.A. Jagatkar, AGP for Respondents/State.

— — —

**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 10 JULY, 2023.

FINAL ORDER [PER : SHAILESH P. BRAHME, J.] :

1. Heard both the sides for final disposal. Since these three petitioners are related inter-se and there is no dispute about their relations, the petitions

are being disposed of by this common order. The facts and circumstances in support of the tribe claim of the petitioners are identical.

2. The petitioners claim to be the member of scheduled tribe 'Koli Mahadev'. Their tribe validity claims have been rejected by the respondent / Scrutiny Committee by distinct judgments and orders which are under challenge in the present petitions.

3. Petitioner-Harshada in Writ Petition No.1145/2021 and Petitioner-Ashwini in Writ Petition No.1602/2021 are real sisters. Petitioner-Snehal in Writ Petition No.1764/2021 is the cousin of Harshada and Ashwini. The genealogy is placed on record by the petitioners which is at page no.17 in the matter of Harshada. The petitioners have placed on record the school record, vigilance report in case of Gulchand, reply to the report, validity certificate of Gulchand and the affidavits. Gulchand is the father of Harshada and Ashwini and uncle of Snehal. He is first validity holder. All these petitions are based on the validity certificate issued in favour of Gulchand.

4. The caste claims were invalidated by the Scrutiny Committee considering contrary entries in the school record of Vishawanath Balchand, Ambadas, Vikas, Damu and Damodar. Their school record disclosed 'Koli' as a tribe. School record of Vishwanath was found to be suspicious considering the double entries. The tampering was noticed in case of school record of Damodar, Ramnath, Kailash also.

5. It was further recorded by the Committee that the place of residence of the petitioners and their ancestors was not compatible with the tribe claim. The tribe of the petitioners was in fact 'Koli' and false record was prepared to show 'Mahadev Koli'. The validity certificate of Gulchand, father of

Harshada and Ashwini was discarded because it was allegedly obtained by suppressing the facts. The validity of Gulchand was based on the school record of Vishwanath, which was bogus. During scrutiny of Gulchand, the validity given to Savita and Ashok was considered. It was found that they were not related to each other. The affinity test also resulted against the petitioners.

6. The learned AGP produced on record the original files. According to him validity of Gulchand is unreliable. There were tampering of record and contrary entries were not duly considered. He supports the impugned judgments and orders.

7. Considering rival submissions of parties, we notice that there was vigilance enquiry in case of father/Gulchand. The same contrary entries were considered in case of Gulchand. The relationship is not disputed. The validity certificate was secured by following due procedure and law. Therefore there is no reason to doubt the validity certificate of the father till it is revoked or cancelled. Therefore we rely upon the principles laid down by the Supreme Court in Paragraph nos. 22 to 24 of judgment in case of **Maharashtra Adavasi Thakur Jamat Swarakshak Samiti vs. State of Maharashtra & others** reported in 2023(2) Mh.L.J.785. We are accepting the validity certificate of Gulchand.

8. It is pertinent to note that the petitioners have filed reply to the vigilance enquiry and disowned the relationship with Vishwanath, Ambadas, Vikas, Damu and Damodar. The Scrutiny Committee relied upon the contrary entries of these relatives alongwith other relatives also. The tempering in case of Damodar, Ramnath and Kailash was considered in case of scrutiny of Gulchand previously. We therefore find that the petitioners are entitled to receive validity certificate with certain conditions.

9. The Scrutiny Committee recorded perverse findings while discarding the validity certificate of Gulchand. The approach of Scrutiny Committee is discriminatory. We are of the opinion that a case is made out by the petitioners to interfere in the impugned judgments and orders. We therefore pass the following order.

ORDER

- (i) The writ petitions are partly allowed.
- (ii) The judgments and orders dated 27.11.2020, 12.12.2020 and 22.01.2021 passed by the Scrutiny Committee, are quashed and set aside.
- (iii) The Scrutiny Committee shall issue tribe validity certificate to the petitioners for 'Koli Mahadev' within a period of two weeks on following conditions that;
 - [a] the tribe certificate shall be subject to the outcome of enquiry of revocation/cancellation of the validity certificate of Gulchand.
 - [b] the petitioners shall not claim any equity.
 - [c] the petitioners shall cooperate with the Scrutiny Committee.
 - [d] Any lapses or procrastination of the petitioners shall result into invalidation of caste claim.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]