

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

WRIT PETITION NO.567 OF 2022

Manish Samadhan Baviskar ... **PETITIONER**

VERSUS

1. The State of Maharashtra
through its Secretary
Tribal Development
Mantralaya, Mumbai.
2. The Scheduled Tribe
Certificate Scrutiny Committee,
Nandurbar District Nandurbar
3. The Head Master (deleted R-3 as per court order dated 20.01.2022)
Secondary and Higher Secondary
School Tq. Jalgaon Dist. Jalgaon ... **RESPONDENTS**

...

Advocate for Petitioner : Mr. Anandsingh Bayas

Advocate for respondent/State : Mr. P.S. Patil

...

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

DATE : 31.07.2023

ORDER (MANGESH S. PATIL, J.) :

Heard both the sides finally at the stage of admission.

2. The petitioner is challenging the order passed by the respondent No.2 - Scheduled Tribe Certificate Scrutiny Committee, whereby, her tribe certificate as 'Tokare Koli' scheduled tribe issued under the Maharashtra Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category

(Regulation of Issuance and Verification of) Caste Certificate Act, 2000 (herein after the Act) has been confiscated and cancelled.

3. The learned advocate for the petitioner would submit that the petitioner's father and second cousin have been issued validity certificates by the scrutiny committees by following due procedure of law and in accordance with the rules. So long as validity certificates are not confiscated and cancelled the petitioner is entitled to derive the benefit. There was no valid reason for the committee to discard such benefit even if it was intending to resort to some reverification.

4. He would submit that the Committee had resorted to inference on the basis of record of some individuals who are not related to the petitioner by blood. A detailed reply to the show cause notice was given by the petitioner expressly denying relation with these individuals and still the committee has resorted to their record which approach is perverse and arbitrary. The learned advocate would submit that even if the committee now intends to resort to some reverification of the validities, the petitioner is entitled to derive the benefit of those validities so long as those are not confiscated and cancelled under Section 7(1) of the Act.

5. He would therefore submit that the petitioner be granted validity certificate by quashing and setting aside the order.

6. The learned AGP would submit that the validity certificates were obtained ignoring the contrary entries. In fact the petitioner ought to have produced those before the committee since that birth record was of his

blood relations, Adhar Hiranman Raoji Gadipura and Sita Hiranman Raoji Koli who are cousin grandfather and cousin grandmother. Their birth record of the year 1945 and 1949 respectively mentioned their caste as 'Koli'. This piece of evidence was concealed by the father while obtaining the validity certificate.

7. We have carefully considered the rival submissions and perused the papers. As has been submitted by the learned advocate for the petitioner, in reply to the vigilance report the petitioner had expressly denied any blood relation between him and the two individuals Adhar Hiranman Raoji Gadipura and Sita Hiranman Raoji Koli, whose contrary entries the committee has resorted to for invalidating his claim. If he had already denied the blood relation, there was nothing before the Committee to controvert the stand. It was expected of the committee to have then discussed as to why it was not ready to accept the petitioner's stand of denial of the blood relation.

8. As far as validities are concerned, again the committee proceeds to observe that the petitioner's father and cousin have obtained validity certificates by not disclosing the adverse entries in respect of these two individuals Adhar Hiranman Raoji Gadipura and Sita Hiranman Raoji Koli of 1945 and 1949. Merely by referring to these two entries the Committee has observed that the petitioner is not entitled to derive benefit of the validity certificates of his father Samadhan and cousin Kishor. This approach of the Committee is clearly perverse and arbitrary more so when it has not even

whispered as to why the validity certificates of these two individuals cannot enure to the petitioner's benefit.

9. Be that as it may, till the time the validity certificates issued to the petitioner's father and cousin are not confiscated and cancelled by resorting to the procedure prescribed by the Act, the petitioner is entitled to derive the benefit of the validity.

10. The learned AGP submits that though the Committee has not whispered anything, on instructions he is making a statement that the Committee is intending to reconsider the validities granted to the petitioner's father and cousin. Even if the petitioner is to be granted validity certificate it should be conditional.

11. The writ petition is partly allowed.

12. The impugned order dated 15.12.2021 passed by the respondent No.2/Scrutiny Committee is quashed and set aside. The respondent No.2 shall immediately issue tribe validity certificate to the petitioner as belonging to 'Tokare Koli' (Scheduled Tribe), which shall be subject to the decision to be taken by the Committee in the matter which it intends to reopen in respect of the validity holders.

13. The petitioner shall not entitled to claim equities.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)