

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

WRIT PETITION NO. 2551 OF 2022

GOPAL DAYANAND GHATE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

AND
WRIT PETITION NO. 1366 OF 2022

VARSHARANI VISHWAMBHAR GHATE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioners : Mr. P.V. Jadhavar
AGP for Respondent Nos. 1 & 2 : Mr. A.S. Shinde

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

DATED : 18 AUGUST, 2023

PER COURT (PER : SHAILESH P. BRAHME, J) :

1. Heard both the sides. Considering the urgency, both the petitions are decided finally at the admission stage.
2. Learned counsel for the petitioner has prayed for calling for the papers of Writ Petition No. 1366 of 2022. We granted the request. Thus both the petitions are considered.
3. The petitioners are challenging common judgment and

order dated 26.11.2021, invalidating their tribe claim for 'Koli Mahadev' scheduled tribe. They are cousins on the paternal side which is undisputed. They are relying upon the validity certificates of Vyankat and Nilkanth whose relations with them is also undisputed. A reliance is placed upon the judgment and order passed by High Court in the matter of Nilkanth in Writ Petition No. 10144 of 2014 allowing the Writ Petition.

4. Learned AGP would oppose the tribe claims of the petitioners indicating contrary entries in the school record of the relatives. He would submit that the tampering of the record was noticed during vigilance enquiry. He would submit that the Scrutiny Committee has arrived at plausible conclusion based upon the record and this is not a fit case to exercise the jurisdiction in favour of the petitioner.

5. We have noticed that Nilkanth and Vyankat are the validity holders, closely related to the petitioners. There is vigilance enquiry in case of Vyankat. By reasoned order, he was issued with validity certificate. It is a matter of record that validity holder Nilkanth was issued with the validity certificate by order of this High Court on 22.09.2015, in Writ Petition No. 10144 of 2014. It reveals

from the judgment of the High Court that relevant record was considered including that of pre-constitutional entry of 1934. We have no reason to adopt any different course.

6. The petitioners are entitled to validity certificates. We are fortified in our view because a pre-independence record is available to support the petitioners. The school record of Ganpat Abaji Ghate is of 1934, indicating caste as 'Koli Mahadev'.

7. The Scrutiny Committee has proposed to undertake the re-verification. It is open for the Committee to look into the matter and we do not offer our comments on the objections of learned AGP for contrary entries and manipulations.

8. We hold that impugned judgment and order is unsustainable. Hence, we pass following order :

ORDER

- i. The writ petition is partly allowed. The impugned order is quashed and set aside. The respondent – committee shall immediately issue tribe validity certificates to the petitioners as belonging to 'Koli Mahadev' scheduled tribe, in the prescribed format

without adding anything. The validity shall be subject to the final outcome of the matters which the committee has decided to re-open.

ii. The petitioners shall not be entitled to claim equities.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

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