

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

WRIT PETITION NO. 1469 OF 2022
WITH CA/4375/2022 IN WP/1469/2022

1. OMKAR GOPAL YENCHEWAD
2. SHANTANU GOPAL YENCHEWAD
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioners : Mr. Vibhute Sunil M.
AGP for Respondent Nos. 1 & 2 : Mr. S.G. Sangale
Advocate for Respondent No. 4 : Mr. Chaudhari Vaishali S.
....

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

DATED : 22 AUGUST, 2023

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

1. Heard learned counsel for the parties, considering the urgency for petitioner no. 2 – Shantanu.

2. The petitioners are challenging common judgment and order dated 25.01.2022, passed by the Scrutiny Committee invalidating the tribe claims of the petitioners for ‘Koli Mahadev’ scheduled tribe. They are the siblings. They rely upon validity certificates issued to real uncle Bandu and real aunt Savita. The old school record was already considered by the earlier committees issuing validity certificates.

3. Learned AGP vehemently opposes the caste claim of the petitioners. It is pointed out that validity certificate of Bandu is obtained by fraud. The Scrutiny Committee has rightly considered the school record of the relatives. The old record was found to be suspicious. According to him, the Scrutiny Committee has arrived at a plausible conclusion.

4. We have considered the original papers of the petitioners filed by learned AGP. A vigilance enquiry report in the matter of Savita is on record on page no. 41. It reveals that a vigilance enquiry was conducted in respect of old record of the relatives of Savita. Original file shows a reasoned order passed in her matter. A voluminous documentary evidence was taken into account. We find that validity certificate issued to Savita is reliable as it satisfies test laid down by the Supreme Court in the matter of *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Versus State of Maharashtra and others*, **2023 SCC Online SC 326**.

5. Learned AGP has strongly objected the validity certificate of Bandu. We have also our reservations for relying upon his validity certificate. The Scrutiny Committee has proposed re-verification of the validity certificates. We restrain ourselves from offering any

comment in that regard. One of the reasons is that the validity holder is not before us.

6. As referred above, the validity certificate of Savita should enure to the benefit of the petitioners. Unless the same is revoked by the Committee, the petitioners cannot be deprived of equal social status. The old record was taken into account earlier which need not be reassessed to arrive at a contrary finding.

7. We are of the view that Scrutiny Committee has committed patent illegality in rejecting the caste claim. We, therefore, dispose of the Writ Petition by passing following order :

ORDER

- i. The Writ Petition is partly allowed.
- ii. The impugned judgment and order is quashed and set aside.
- iii. The Scrutiny Committee shall forthwith issue tribe validity certificates to the petitioners as belonging to 'Koli Mahadev' scheduled tribe, on a condition that the validity certificates shall be subject to final outcome of the re-verification undertaken by the Scrutiny Committee.

iv. The certificates of validity shall be issued strictly in the prescribed format without incorporating other conditions /additions.

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

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

SPC/