

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

WRIT PETITION NO.3271 OF 2023

- 1] Amol s/o Gangadhar Sone
Age- 21 years Occ- Education
- 2] Babita d/o Gangadhar Sone
Age-23 years Occ- Education
- 3] Shital d/o Narayan Sone
Age- 25 years Occ- Education

All the petitioners above
R/o. Nagapur, Tq. Biloli, Dist. Nanded. ... **Petitioners**

Versus

- 1] The State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai-32.
- 2] Scrutiny Committee for Scheduled Tribes,
Through Vice-Chairman, Office Kinwat,
Dist. Aurangabad. ... **Respondents**

...
Mr. O. B. Boinwad, Advocate for Petitioners.
Mr. S. K. Tambe, AGP for Respondents.
...

AND

WRIT PETITION NO.3274 OF 2023

- 1] Gayatri d/o Maroti Sone
Age- 19 years Occ- Education
- 2] Ku. Archana Narayanrao Sone
Age-28 years Occ- Education

- 3] Nagesh s/o Narayan Sone
Age-23 years Occ- Education

All the petitioners above
R/o. Nagapur, Tq. Biloli, Dist. Nanded. ... **Petitioners**

Versus

- 1] The State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai-32.
- 2] Scrutiny Committee for Scheduled Tribes,
Through Vice-Chairman, Office Kinwat,
Having its office at Aurangabad. ... **Respondents**

...
Mr. O. B. Boinwad, Advocate for Petitioners.
Mr. S. K. Tambe, AGP for Respondents.
...

CORAM : **RAVINDRA V. GHUGE &
SANJAY A. DESHMUKH, JJ.**

DATE : 27th March, 2023.

ORAL JUDGMENT: (Per Ravindra V. Ghuge, J.)

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2. All the Petitioners are identically placed. In Writ Petition No.3271 of 2023, the Petitioners have put forth prayer clauses 'A' to 'C' as under:-

- “A) This Writ Petition may kindly be allowed and it may kindly be held and declare that, petitioners belong to “Koli Mahadev-29” Scheduled Tribe.
- B) The impugned Judgment and order dated 25.07.2022 passed by the Respondent No. 2 Scrutiny Committee, invalidating the Tribe Claims of the petitioners of “Koli Mahadev-29” Schedule Tribe, may kindly be quashed and set aside and respondent no. 2 Scrutiny Committee may kindly be directed to issue Tribe Validity Certificate of “Koli Mahadev-29” Scheduled Tribe in favor of the petitioners.
- C) Pending hearing and final disposal of the petition, the impugned Judgment and order dated 25.07.2022 passed by the respondent no. 2 Scrutiny Committee, invalidating the Tribe Claims of the petitioners of “Koli Mahadev-29” Scheduled Tribe, may kindly be stayed.”

3. The Petitioners draw our attention to the family tree at page No.94 of the Petition paper book, which is a part of the affidavit that was filed by one of them before the committee. In Writ Petition No.3271 of 20223, Petitioner Nos.1 and 2 are biological siblings. Their father is Gangadhar, who has a validity certificate. The biological brother of Gangadhar, namely Maroti also has a validity certificate. The biological children of Maroti, namely Rutuja and Anant, have been granted validity certificates under the orders of the High Court dated 5th October, 2017 delivered at Mumbai in Writ Petition No.10422 of 2017 (Rutuja d/o. Maroti Sone Vs. The State of

Maharashtra and others) and dated 3rd August, 2018 delivered at Aurangabad Bench in Writ Petition No.8921 of 2018 (Anant Maroti Sone through natural guardian Maroti Raghunath Sone Vs. The State of Maharashtra and others). Petitioner No.3 – Shital is the daughter of Narayan, who is the biological brother of Gangadhar and Maroti.

4. The father of Narayan, Gangadhar, Maroti etc. is Raghunath, whose father is Lalba, son of Shivram. Piraji is the biological son of Shivram and biological brother of Lalba. Two sons of Piraji, namely Kishan and Ramesh, have received validity certificates. The son of Kishan, namely Vikram, and the son of his biological brother Gopal, namely Nakul, also have validity certificates.

5. The Petitioners rely upon ***Apoorva d/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee, 2010 (6) Mh.L.J. 401.***

6. Petitioner No.1 – Gayatri, who has preferred Writ Petition No.3274 of 2023, in view of suffering an adverse judgment dated 25th July, 2022, is the biological sister of Anant and Rutuja, both of whom have been granted validity certificates by the High Court. Their father namely, Maroti has also received validity certificate. Petitioner No.2 – Archana and Petitioner No.3 – Nagesh (in Writ Petition No.3274 of

2023) are the biological children of Narayan. Archana and Nagesh are the biological sister and brother of Alka, who has already received a validity certificate. Their father namely, Narayan is the biological brother of Gangadhar and Maroti.

7. The learned AGP has strongly opposed these Petitions and has supported the conclusions drawn in the impugned common judgment. He submits that there are contradictory pieces of evidence and contra entries. Those relatives from the paternal side, who have been granted validity certificates, are likely to face reopening of their cases. He points out from the final order dated 3rd August, 2018 delivered by this Court in Writ Petition No.8921 of 2018, Anant Maroti Sone (supra), more specifically paragraph 8, that this Court has also observed that if the real sister's claim is invalidated, the Petitioner cannot claim any equity and would not be entitled for protection of his admission.

8. On the one hand, we find that the case of the Petitioners would be covered by ***Apoorva d/o Vinay Nichale*** (supra). On the other hand, in the event of any validity holder's case being reopened and he/she suffers invalidation, the consequences suffered by such candidate would befall upon these Petitioners since they are relying

upon such orders of validation. The law laid down by this Court in ***Writ Petition No.5611 of 2018 (Shweta Balaji Isankar Vs. State of Maharashtra and ors)*** would, therefore, apply to this case.

9. In view of the above, both these Petitions are partly allowed. The impugned common judgment dated 25th July, 2022 is quashed and set aside and these 6 Petitioners be granted validity certificates of belonging to “Koli Mahadev-29” Scheduled Tribe, on or before 15th April, 2023.

10. Needless to state, keeping in view the law laid down in ***Shweta Balaji Isankar*** (supra), if any of the validity holders on whom these Petitioners have placed reliance before us, suffers invalidation on account of reopening of his/her case, the consequences of such invalidation suffered by the said candidate, would also befall upon these 6 Petitioners and they would also have to face the same situation.

11. Rule is made partly absolute in the above terms.

[SANJAY A. DESHMUKH, J.]

[RAVINDRA V. GHUGE J.]