

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

WRIT PETITION NO. 3041 OF 2022

Shubhangi d/o Laxman Suryawanshi,
Age 24 years, Occ. Education,
R/o. Adarsha Colony, Purna, Tq. Purna,
Dist. Parbhani

... **Petitioner**

VERSUS

- 1) The State of Maharashtra,
Through its Secretary,
Higher and Technical Education
Department, Mantralaya Mumbai-32.
- 2) Scrutiny Committee for Scheduled Tribes,
Through Vice Chairman, Aurangabad.
- 3) The Registrar,
College of Engineering, Pune,
Wellesely Road, Shivaji Nagar,
Pune- 411 005.
- 4) The Registrar,
Savitribai Phule Pune University,
Ganesh Khind Road, Ganesh Khind,
Pune

... **Respondents**

...
Advocate for the Petitioner : Mr. V. D. Sapkal Senior Advocate i/b Mr. O.B.
Boinwad
A.G.P for the Respondents /State : Mr. A.S. Shinde

...
WITH
WRIT PETITION NO. 3053 OF 2022

Sonali d/o Laxman Suryawanshi,
Age 22 years, Occ. Education,
R/o. Adarsha Colony, Purna, Tq. Purna,
Dist. Parbhani

... **Petitioner**

VERSUS

- 1) The State of Maharashtra,

Through its Secretary,
Medical Education Department,
Mantralaya Mumbai-32.

- 2) Scrutiny Committee for Scheduled Tribes,
Through Vice Chairman, Aurangabad.
- 3) The Maharashtra University of Health
Sciences, Mhasrul Road, Vani Dindori
Road, Nashik Tq. & Dist. Nashik.
- 4) Dr. Shankarrao Chavhan Government
Medical College, Vishnupuri, Nanded,
Tq. & Dist. Nanded

... **Respondents**

...
Advocate for the Petitioner : Mr. V. D. Sapkal Senior Advocate i/b Mr. O.B.
Boinwad
A.G.P for the Respondents /State : Mr. A.S. Shinde

...
WITH
WRIT PETITION NO. 3257 OF 2022

Seema d/o Ganesh Suryawanshi,
Age 24 years, Occ. Education,
R/o. Adarsha Colony, Purna, Tq. Purna,
Dist. Parbhani

... **Petitioner**

VERSUS

- 1) The State of Maharashtra,
Through its Secretary,
Higher and Technical Education
Department, Mantralaya Mumbai-32.
- 2) Scrutiny Committee for Scheduled Tribes,
Through Vice Chairman, Aurangabad.
- 3) The Registrar,
College of Engineering, Pune,
Wellesely Road, Shivaji Nagar,
Pune- 411 005.
- 4) The Registrar,
Savitribai Phule Pune University,
Ganesh Khind Road, Ganesh Khind,

Pune

... Respondents

...

Advocate for the Petitioner : Mr. V. D. Sapkal Senior Advocate i/b Mr. O.B.
Boinwad

A.G.P for the Respondents /State : Mr. A.S. Shinde

...

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

DATE : 22.06.2023

PER COURT :

The petitioners' tribe certificates as belonging to 'Koli Mahadev' scheduled tribe have been cancelled and seized by the respondent-Scrutiny Committee by the impugned common judgment and order. Petitioners Sonali and Shubhangi are real sisters and petitioner Seema is their cousin. Since the order passed by the scrutiny committee is common, all the three matters are being disposed of by this common order.

2. We have heard the learned Senior Advocate Mr. V.D. Sapkal for the petitioners and the learned A.G.P extensively and perused the papers. Obviously, endeavour has been made by Mr. Sapkal to demonstrate as to how the petitioners are Koli Mahadev and that the certificates granted to them needed to be validated. The whole emphasize of Mr. Sapkal has been on the point that several blood relations of these petitioners have been granted validity certificates. None of which has been even attempted to be revoked or cancelled by undertaking any fresh enquiry. He would also point out that even the real sister of petitioner Shubhangi and Sonali by name Vidya has been granted validity by this Court in Writ Petition No. 8158/2020 dated 15.12.2020. He would further point out that all the submissions being made by the learned A.G.P to substantiate the impugned order have been considered by this Court and still Vidya was granted validity certificate. For this reason alone, the impugned order is liable to be quashed and set

aside and the petitioners deserve to be granted validity certificates.

3. We have carefully gone through the impugned order as also the record including the order passed by this Court in the matter of Vidya (supra). As can be noticed from paragraph No. 3 of that order, the aspect regarding manipulation in the school record in respect of one Chandrakanta -paternal aunt of Vidya, similar manipulation in respect of one Prakash Marotirao Pawar, rejection of a similar proposal in respect of one Nagesh stated to be the blood relative from the paternal side of Vidya way back in the year 2007 and non disclosure of all the facts were expressly argued before this Court by the learned A.G.P. Those submissions were considered by this Court while holding that Vidya was entitled to a validity certificate.

4. Pertinently, this fact of passing of the order in Vidya's matter was expressly brought to the notice of the respondent-scrutiny committee in the reply filed by these petitioners to the vigilance report still, conspicuously, the impugned order does not even refer to the order of this Court in the matter of Vidya. We asked both the sides to demonstrate if any such reference can be found in the impugned order and in spite of having taken time, both could not point out about the committee having considered the order of this Court in the matter of Vidya.

5. If such is the state of affairs, when this Court in the matter of Vidya, for the reasons recorded in the order has granted validity to her, petitioners Shubhangi and Sonali who are real sisters of Vidya and petitioner Seema who is their first degree cousin from the paternal side will have to be granted validity certificates.

6. A specious plea of the committee of their intention to reopen the cases of the validity holders without actually taking steps to undertake such an exercise cannot be accepted. If at all it is empowered in law to undertake such a re-scrutiny of the validity certificates granted to several blood relations of these petitioners apart from Vidya, it may do so but that would

taken much time and it would be a long drawn process. The petitioners cannot be deprived of deriving the benefit which the blood relations have been deriving on the basis of the validity certificates.

7. This Court has been taking a practical view in the peculiar circumstances of this kind where there are blood relations having validity certificates. There is no dispute about blood relationship and still they cannot be granted validity certificate only because the committee entertain some doubt and alleges fraud, which is still to be established. In the matter of **Maharashtra Adiwasi Thakur Jamat Swarakshan Samniti Vs. State of Maharashtra and others; 2023 SCC Online SC 326** such a situation has been dealt with in paragraph No. 22 and 23.

8. The writ petitions are partly allowed.

9. Impugned order of the committee is quashed and set aside, in respect of the petitioners. The committee shall issue validity certificates to them as belonging to 'Koli Mahadev' scheduled tribe immediately which shall be subject to the decision that would be taken by the committee in the matters of Vidya Laxman Suryawanshi, Jyoti Ganesh Suryawanshi and Ganpat Bajirao Ghorpade.

10. The petitioners will not be entitled to claim any equities and the benefits derived by them would stand revoked automatically if the validity certificates of all the relations are revoked or are cancelled.

11. We direct the scrutiny committee to conclude the proceedings wherever they have decided to reopen the validities as expeditiously as possible and in any case within six months.

12. It would be imperative for the petitioners as well as their blood relations whose cases are opened or would be opened by the scrutiny committee to co-operate the scrutiny committee in early disposal of such re-

opened cases.

13. Any lapse on their part noticed by this Court would be considered seriously and even this Court may revoke the conditional validity granted to the petitioners.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

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