

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

WRIT PETITION NO.3055 OF 2023

Sachin Sunil Raut,
Age : 20 Years, Occu. : Student,
R/o. N-7 CIDCO, Tq. & Dist. Aurangabad.

... Petitioner

Versus

1. The State of Maharashtra
Through it's Secretary,
Tribal Development Department,
Mantralaya, Mumbai – 32.

2. The Scheduled Tribe Certificate Scrutiny,
Committee, Aurangabad,
Through its Deputy Director (R).

... Respondents.

. . .
Advocate for Petitioner : Mr. Pratap V. Jadhavar
AGP for Respondents – State : Mr. V. M. Kagne
. . .

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

DATED : 20th 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. The Petitioner has put forth the prayer clauses 'B', 'C' and 'D' as under :-

- “B] By way of an appropriate writ, order or direction in like nature may kindly quash and set aside the order dated 30/11/2022 (Exhibit "E") passed by the scrutiny committee and declare and hold and issue validity certificate in favour of petitioner as belongs to Koli Mahadev Scheduled Tribe.*
- C] By way of an appropriate writ, order or direction in like nature the execution, operation and implementation of the impugned order dated 30/11/2022 (Exhibit E) passed by the respondent scrutiny Committee may kindly be stayed and further issue direction against the respondent not to take any adverse against petitioner;*
- D] Pending hearing and final disposal of this Writ Petition, the execution, operation and implementation of the impugned order dated 30/11/2022 (Exhibit E) passed by the respondent scrutiny Committee may kindly be stayed and further issue direction against the respondent not to take any adverse against petitioner.”*

3. We have considered the strenuous submissions of the learned Advocate for the Petitioner and the learned AGP on behalf of the Respondents-State, who has strongly opposed this Petition. With their assistance, we have perused the Writ Petition's paper book and the record available.

4. The school record of the father of the Petitioner, namely Sunil indicates his social status as ‘Hindu Mahadev Koli’. The school record of the Petitioner also indicates ‘Hindu Mahadev Koli. His father has been granted a validity certificate. His biological uncle and aunt, namely Amol and Sunita, have also been granted validity certificates. The Petitioner's grandfather is Ramji.

5. Ramji has three biological brothers namely Dilip, Laxman and Madhav. Dilip has two sons and one daughter, namely Rutwik, Sagar and Aarti. Rutwik's claim was invalidated and he preferred Writ Petition No. 8681 of 2019, before this Court. By an order dated 17.07.2019, the Writ Petition filed by Rutwik was conditionally allowed and he was granted the 'Koli Mahadev' Scheduled Tribe validity certificate subject to the decision that may be arrived at after the Committee reopens the case of Sunil, Amol, Sunita, Sagar and Arati.

6. The learned AGP submits that the father of the Petitioner has been issued a Show Cause Notice. After reassessment, the claim of the Petitioner's father may be granted or could also be rejected. If rejection occurs, his biological brother Amol and sister Sunita would also suffer the same consequences.

7. A case before this Court in somewhat similar circumstances was decided at the Principal Seat, vide order dated 27.07.2018 in Writ Petition No. 5611 of 2018 filed by ***Shweta Balaji Isankar V/s State of Maharashtra and others***. Paragraphs 2, 3, 4 and 8, read as follows :-

“2. On the earlier occasion, we found that though the petitioner produced credible evidence in the form of certificates

of validity issued to her real uncle Govind Sambhaji Isankar and which concededly has been issued way back on 5th December 2005 and another certificate of validity dated 5th September 2006 to his cousin uncle Ramdas Sambhaji Isankar, the Committee finds that the certificate of validity issued to the real uncle Govind, is not free from suspicion. It is held by the Committee in the impugned order that a notice to show cause has been issued to said Govind on 14th September 2017, calling upon him to show cause as to why this certificate of validity should not be cancelled as its issuance is vitiated by fraud or suppression of material facts by the said Govind.

3. On such a finding being rendered by the Committee, we called upon the learned AGP on the earlier two occasions to produce the record. We also indicated to the learned AGP as to how the certificate of validity is denied to the petitioner though she has established her relationship with the said Govind and only on the ground that a show cause notice has been issued, but no proceedings in furtherance thereof came to be initiated till date. The learned AGP sought time to file an affidavit. Now, the Joint Commissioner, Schedule Tribe Scrutiny Committee, Aurangabad has filed an affidavit in reply. That is taken on record. The said affidavit admits that the certificate of validity has been issued to her real uncle and cousin uncle of the petitioner. The affidavit admits that the petitioner relies heavily on these two documents, but clarifies that there is a suppression detected from the original record of the certificate holder and that is how a show cause notice has been issued to Govind. The show cause notice could not be taken to its logical end on account of the huge pendency of cases before this Committee. In all, 7,000 matters were pending on the date when this Joint Commissioner took charge and he has reduced the pendency by 2500 cases being decided. In the circumstances, he says that appropriate orders and directions be issued by this Court.

4. We are not impressed by this explanation and the justification not to proceed against a person who has perpetrated a fraud on the public. If it is a serious allegation and which is termed as fraud, then, it should have been taken to its logical end. Mere issuance of a show cause notice in the present case would not suffice for there are two certificates of validity relied upon. The only reason assigned in the impugned order to discard them, cannot be sustained. The justification in

the above affidavit is also not enough to straightaway discard the certificates of validity issued in the family. It is conceded that other reasons assigned in the impugned order cannot be supported in law.”

“8. This order does not prevent the Committee from proceeding against Govind in accordance with law and needless to further clarify that in the event Govind's claim is invalidated, all the consequences shall be taken by the petitioner as well.”

8. Considering the above, we are of the view that the law laid by this Court in ***Apoorva d/o Vinay Nichale vs. Divisional Caste Certificate Scrutiny Committee No.1 and others, 2010 (6) Mh.L.J. 401***, would apply to the case of this Petitioner. Similarly, considering the order passed in the case of Rutwik, we are of the view that the law laid down in ***Shweta Isankar*** (supra) can also be made applicable.

9. In view of the above, this Petition is partly allowed. The impugned order dated 30.11.2022 is quashed and set aside with the following directions :-

A] The Petitioner be granted a validity certificate of ‘Koli Mahadev’ Scheduled Tribe, on or before 30.04.2023, keeping in view that a strike of the Government employees in the State of Maharashtra has commenced.

B] In the event, the case of the Petitioner's father Sunil or biological uncle Amol, biological aunt Sunita, cousin brothers, Rutwik and Sagar and cousin sister Aarti, suffer reopening of cases and if the claim of any of these

is rejected, the consequences suffered by the said candidates would also befall upon the present Petitioner and the committee would be at liberty to initiate appropriate steps/action by following the due procedure laid down in the law.

10. Rule is made absolute in the above terms.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE, J.)

Tandale/-