

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

WRIT PETITION NO. 5570 OF 2021

Shital Subhash Malu	...Petitioner
Versus	
The State of Maharashtra and Another	...Respondents

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Advocate for Petitioner : Mr. Sunil M. Vibhute
AGP for Respondent No. 1 and 2/State : Mr. S. K. Tambe
Advocate for Respondent No.4 : Mr. S. B. Bhosale

...

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

DATE : 08 AUGUST 2023

ORDER (Shailesh P. Brahme, J.) :

. Heard both the sides finally.

2. The petitioner is challenging the judgment and order dated 01.03.2021 passed by the respondent no.2/Scrutiny Committee, invalidating her claim for Koli Mahadev scheduled tribe. She is relying upon the validity certificate of close relatives. The record of the first validity holder Govind, is pressed into service to fortify the claim.

3. The learned AGP opposes the claim of the petitioner on the ground that there were contrary entries. There was manipulation in the school record of Subhash. The validity certificate of Govind is not reliable one. The learned AGP further informs that the Scrutiny Committee has issued show cause notices to the validity holders.

During the course of hearing, the file of validity holder Govind is produced on record.

4. It transpires from the record that there was vigilance enquiry in case of Govind Malu. The vigilance report discloses that various documentary evidence was considered. We notice pre-constitutional entry in school record of Tukaram Malu. By a reasoned order, Govind was issued with validity certificate. The Scrutiny Committee erred in holding that Govind was issued validity certificate only on the basis of validities issued to the maternal side relatives.

5. We are of the considered view that the validity certificate of Govind is reliable. Besides that we have noticed from the genealogy which is at page no.56 that there are number of validity holders who are paternal side close relatives. There is clinching school record of pre-constitutional period indicating caste as Koli Mahadev. The Scrutiny Committee committed material illegality in rejecting the caste claim of the petitioner.

6. The impugned judgment and order is unsustainable. We, therefore, pass the following order.

ORDER

A. The writ petition is partly allowed.

B. The impugned order dated 01.03.2021 passed by the respondent no.2/Scrutiny Committee is quashed and set aside. The Scrutiny Committee shall immediately issue tribe validity certificate to the petitioner as belonging to 'Koli Mahadev' (Scheduled Tribe).

C. It shall be subject to the decision/outcome in the matters to be reopened by the Committee of the validity holders.

D. The certificate of validity shall be issued in the prescribed format without incorporating other conditions.

E. The petitioner shall not be entitled to claim equities.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

Najeab.