

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

WRIT PETITION NO. 4632 OF 2023

SWARUPA D/O. NARENDRA HUGE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

....
Advocate for Petitioners : Mr. Mahesh S. Deshmukh
i/b. Mr. Sagar S. Phatale
A.G.P. for Respondents : Mr. S.G. Sangale
....

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

DATED : 31 July, 2023

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

1. Heard both sides for final disposal, considering the urgency in the matter.

2. The petitioner is challenging the judgment and order dated 13.09.2022, invalidating her caste claim for being 'Koli Mahadev' scheduled tribe. The principle ground of challenge is that her cousin uncle Kishor Ganpatrao Huge was issued with validity certificate on 19.04.2003 and despite that the caste claim was rejected. The reliance is also placed upon various entries in school record, vigilance report in case of Kishor, the old document of agreement of 1944 and the affidavit of Kishor. It is further submitted that the agreement to sale of

the year 1944 is pre-independence document having greater probative value which was not dealt with in the impugned judgment, which is perverse.

3. Learned AGP supports impugned judgment and order. According to him, the validity certificate is not reliable because genealogy was incompletely shown, the petitioner failed to explain contrary entries and there were suppression of facts in case of validity of Kishor. According to learned AGP, no case is made out to interfere with the impugned judgment and order.

4. We have considered the rival submissions canvassed by the parties. The genealogy is placed on record at page no. 24. The relationship of the petitioner with Kishor as cousin uncle from the paternal side is undisputed. It is also noticed that there was a vigilance enquiry in case of Kishor and report is produced on page no. 49. The said report discloses that contrary entries and supportive entries both were considered. Thereafter, validity certificate was issued to Kishor. We find that due procedure was followed in the matter of Kishor. His validity certificate is reliable and petitioner is entitled to have the similar social status.

5. It is transpired that while conducting enquiry in case of

Kishor, an application was submitted on 28.01.2003 by Kishor and certain documents were produced on record. One of such a documents is an agreement to sale of the year 1944 executed between Sambhaji Ram Chatlawar and Bhimrao Aabaji Huge. Bhimrao is great grandfather of the petitioner. His caste was stated to be 'Mahadev Koli' in the agreement. This document has greater probative value. The Scrutiny Committee did not deal with the said document in the impugned judgment and order. We find that this is perversity committed by the Scrutiny Committee.

6. Learned AGP would submit that the contrary entries pointed out to the petitioner through vigilance report were not explained. The genealogy was incomplete. The validity certificate of Kishor was obtained by suppression of facts.

7. We do not propose to go into that aspect of matter. The Scrutiny Committee has proposed to reopen the validity certificate of Kishor. The validity holder is not before us and we are not suppose to scrutinize his validity certificate. We are suppose to examine the impugned judgment and order and material placed in support of the rival claims. We restrain ourselves from making any comment touching the proposed re-verification. We hold that the petitioner is

entitled to receive conditional validity.

8. For the reasons stated above the impugned and order is unsustainable and deserves to be quashed. We, therefore, allow this petition partly by quashing and set aside the impugned judgment and order dated 13.09.2022, passed by the Scrutiny Committee. The Scrutiny Committee shall issue the validity certificate in favour of the petitioner for scheduled tribe 'Koli Mahadev' within a period of two weeks from today on condition that the validity certificate shall be subject to the result of re-verification of the validity certificate undertaken by the Scrutiny Committee and the petitioner shall not claim any equity.

9. The Writ Petition is disposed of in above terms.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)