

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

**WRIT PETITION NO.4975 OF 2023**

Sneha d/o Ramesh Rao Pitthalwad,  
Age 25 years, Occupation Student,  
R/o Kolwadi Tq. Palam Dist.Parbhani. **...Petitioner**

**VERSUS**

1. The State of Maharashtra,  
Through its Additional Chief Secretary,  
Tribal Development Department,  
1<sup>st</sup> Floor, Annex Building,  
Mantralaya, Madam Cama Road,  
Hutatma Rajguru Chowk,  
Nariman Point, Mumbai-400 032.
2. The State of Maharashtra,  
Through its Secretary,  
Medical Education and Drugs  
Department, 9<sup>th</sup> Floor, G.T. Hospital  
Campus, New Mantralaya,  
Lokmanya Tilak Road, Mumbai-1.
3. The Schedule Tribe  
Certificate Scrutiny Committee,  
Through its Member Secretary,  
Aurangabad Division, Aurangabad.
4. The Registrar,  
Maharashtra University of Health  
Sciences Nashik, Dindori Road,  
Nashik, Tq. And Dist.Nasik.
5. The Dean / Principal,  
Government Medical College,  
Ghati, Aurangabad,  
Tq. And Dist. Aurangabad.

**...Respondents**

.....  
Advocate for Petitioner : Mr. V. D. Sapkal, Senior Advocate i/b  
Mr. S. T. Chalikwar.  
AGP for Respondents No.1 to 3 and 5 : Mr. A. A. Jagatkar  
Advocate for Respondent No.4 : Mr. A. S. Bayas  
.....

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

**DATE : 30-06-2023.**

**JUDGMENT : ( Per SHAILESH P. BRAHME, J.)**

1. With the consent of the learned Advocates, this matter is taken up for final hearing.
2. We peruse the record produced by the learned AGP during the course of hearing. Also we have gone through the relevant papers showing school / revenue record, order of Scrutiny Committee in case of father of the petitioner, old entry of 1951 and vigilance reports.
3. The petitioner is challenging the Judgment and order dated 19/04/2023, passed by the respondent No.3 Scrutiny Committee invalidating the claim of the petitioner for 'Tribe Koli Mahadev'. She relied upon voluminous record.

4. The Scrutiny Committee invalidated the claim because school and the revenue record of the petitioner and her relatives was not convincing. The school record of Rajaram Ranbaji Pitthalwad, Govind Ranbaji Pitthalwad and Anteram Ranbaji Pitthalwad were found to be bogus. A forged record was produced of the year 1951. In a sale transaction of 2007, it was represented by Anteram that he was not belonging to the Scheduled Tribe.

5. It was also recorded that the place of residence of the relatives of the petitioner was not consistent with the ordinary place of residence of the Tribe. The affinity test was against the petitioner. The caste validity certificate of her father Rameshrao Pitthalwad was discarded, because by suppressing material facts it was procured.

6. Strong reliance was placed by the Committee on First Information Report No.0273 of 2018, registered with Police Station, Kotwali for offence of forgery and tampering in a Census record of 1951. The Vigilance Cell reports were against the petitioner. Hence, decision was given against her.

7. The learned Senior Counsel submitted that father of the petitioner Rameshrao was issued validity certificate after following

due procedure of law. All factors were taken into account including report of the Vigilance Cell. Old entry of 1951 from census was verified and then accepted. In view of the reasoned order, passed by the Committee in case of her father, she was entitled to receive validity.

8. The learned AGP relied upon the original record. According to him, the validity certificate of the father of the petitioner was obtained by fraud and suppression. The alleged old entry of 1951 was forged and bogus. An offence was registered in that context. Therefore, it was prayed that no interference was called for.

9. We have gone through the record of the petitioner as well as her father. The relationship is not in dispute. The old entry of 1951 was relied upon while conducting scrutiny of the tribe certificate of the father. The entry of 1951 is from Census Department which is at Page No.138 at Serial No.72. It depicts that Piraji, Rajabai and Ranbaji residing at Ithalapur Tq. Dist. Parbhani was of Tribe 'Koli Mahadev'.

10. It transpired that entry of 1951 was not blindly accepted. Vigilance Officer had sought information from concerned Tahsildar by

letter dated 19/01/2011, which is at page No.136-A. A reply was given by Tahsildar on 20/01/2011 stating that there was no tampering and the copy was issued from the record. There was Vigilance Cell report in case of father which is at page No.146.

11. By order dated 25/03/2011, the Scrutiny Committee validated claim of the father considering Vigilance Cell report, entries of school and revenue record and the entry of 1951. It was by reasoned order. We place reliance on the guidelines of Supreme Court stipulated in paragraphs No.22 and 23 of *Maharashtra Adiwas Thakur Jamat Swarakshan Samiti vs. The State of Maharashtra and Ors.*, reported in 2023 (2) Mh.L.J. 785, which are as follows :-

"22. We can also contemplate one more scenario which is found in many cases. These are the cases where the applicant relies upon caste validity certificates issued to his blood relatives. Obviously, such a validity certificate has to be issued either by the Scrutiny Committee constituted in terms of the directions issued in *Kumari Madhuri Patil's case* or constituted under the Rules framed under the 2000 Act. In such a case, firstly, the Scrutiny Committee must ascertain whether the certificate is genuine. Secondly, the Scrutiny Committee will have to decide whether the applicant has established that the person to whom the validity certificate relied

upon by him has been issued is his blood relative. For that purpose, the applicant must establish his precise and exact relationship with the person to whom the validity certificate has been granted. Moreover, an enquiry will have to be made by the Scrutiny Committee whether the validity certificate has been granted to the blood relative of the applicant by the concerned Scrutiny Committee after holding due enquiry and following due procedure. Therefore, if the Scrutiny Committee has issued a validity certificate contemplated in terms of the decision in the case of *Kumari Madhuri Patil*, the examination will be whether the enquiry contemplated by the said decision has been held. If the certificate relied upon is issued after coming into force of the 2000 Act, the Scrutiny Committee will have to ascertain whether the concerned Scrutiny Committee had followed the procedure laid down therein as well as in the ST Rules or the SC Rules, as the case may be. For this verification, the Scrutiny Committee can exercise powers conferred on it by Section 9(d) by requisitioning the record of the concerned Caste Scrutiny Committee, which has issued the validity certificate to the blood relative of the applicant. If the record has been destroyed, the Scrutiny Committee can ascertain whether a due enquiry has been held on the basis of the decision of the Caste Scrutiny Committee by which caste validity has been granted to the blood relative of the

applicant. If it is established that the validity certificate has been granted without holding a proper inquiry or without recording reasons, obviously, the caste scrutiny committee cannot validate the caste certificate only on the basis of such validity certificate of the blood relative.”

“23. In a given case, the Scrutiny Committee may be satisfied that the caste validity certificate relied upon by the applicant has been issued after making a lawful enquiry. But if the Scrutiny Committee is of the view that the applicant has not clearly established that the person to whom caste validity certificate produced on record has been granted is his blood relative, in terms of sub-rule (2) of Rule 12 of the ST Rules, the Caste Scrutiny Committee will have to refer the case for conducting an enquiry through Vigilance Cell. In such a case, the Vigilance Cell can be directed by the Scrutiny Committee to conduct an enquiry limited to the relationship claimed by the applicant with the person in whose favour the caste validity certificate has been issued. If, on the basis of the report of the Vigilance Cell, the Scrutiny Committee is satisfied that the person in whose favour caste validity certificate has been issued is a blood relative of the applicant and lawful enquiry has been conducted before issuing the validity certificate, the Scrutiny Committee will have to issue validity certificate even if the applicant does not satisfy the affinity test. For

example, if it is established that the father or grandfather of the applicant has been given a caste validity certificate after holding a lawful enquiry in accordance with law, the Caste Scrutiny Committee cannot hold that the grandfather or father of the applicant, as the case may be, belongs to Scheduled Tribe but the applicant does not belong to Scheduled Tribe. Only if the relationship as pleaded by the applicant is not established, the other evidence produced by the applicant and the result of the affinity test can be taken into consideration by the Scrutiny Committee."

12. In case of present petitioner, there was Vigilance Cell report on two occasion. Independently Vigilance Officer sought information from the Collector about entry of 1951 vide letter dated 14/01/2016. It was replied by Tahsildar on 30/01/2016 which is at page No.269 that entry was reported to be born from the record. Under these circumstances, finding in the first vigilance report about entry of 1951, is inconsistent.

13. The second vigilance report is at page No.333. The relatives shown on internal page No.3 namely Babarao, Shankar and Bapurao are not related to the petitioner. The registration of the offence in respect of entry of 1951 is not decisive to deprive the petitioner

from the tribe status.

14. So far as the validity of the father of the petitioner is intact, petitioner is entitled to get validity. The Scrutiny Committee recorded perverse finding. It should not have discarded the validity of the father. We feel that the interference in the impugned Judgment and order is necessary.

15. We, therefore, allow this petition partly in following terms :-

(A) The Judgment and order dated 19/04/2023, passed by the Scrutiny Committee, is quashed and set aside.

(B) The respondent No.3 Scrutiny Committee shall issue Tribe Certificate of 'Koli Mahadev' to the petitioner within a period of two weeks.

(C) The tribe validity certificate to be issued to the petitioner shall be subject to the revocation or cancellation of validity certificate of her father on the reopening of the claim.

(D) The petitioner shall not claim any equity in case of revocation or cancellation of the Tribe Certificate of her father.

**( SHAILESH P. BRAHME, J. )**

**( MANGESH S. PATIL, J. )**

vjg/-