

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

Writ Petition No. 6679 / 2022

Rushikesh s/o Yogesh Mudiraj,
Age 26 years, Occu. Private Service,
R/o. Somesh Colony, Usmansahi Mill Road,
Behind Intuck Office, Nanded,
Tq. and Dist. Nanded.

...Petitioner

Versus

1. The State of Maharashtra,
Through Secretary to
Tribal Development Department,
Mantralaya, Mumbai.
2. The Scheduled Tribe Caste Certificate
Verification Committee, Kinwat, At Aurangabad,
Through its Dy. Director (R),
Dist. Aurangabad.
3. The Principal,
Jayawant Shikshan Prasarak Mandal's
Jaywantrao Sawant Engineering College,
Handewadi, Hadpasar, Pune,
Dist. Pune.

...Respondents

WITH

Writ Petition No. 6695 / 2022

Ritesh s/o Yogesh Mudiraj,
Age 22 years, Occu. Education,
R/o. Somesh Colony, Usmansahi Mill Road,
Behind Intuck Office, Nanded,
Tq. and Dist. Nanded.

...Petitioner

Versus

1. The State of Maharashtra,
Through Secretary to
Tribal Development Department,
Mantralaya, Mumbai.

2. The Scheduled Tribe Caste Certificate
Verification Committee, Kinwat, At Aurangabad,
Through its Dy. Director (R),
Dist. Aurangabad.

...Respondents

Mr. Sunil M. Vibhute, Advocate for the Petitioners in both petitions.
Mr. S. G. Sangale, AGP for respondents/State in both petitions.

**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**
DATE : 20 JULY 2023.

FINAL ORDER [PER : SHAILESH P. BRAHME, J.] :

. Heard learned Counsel for the respective parties and taken up
for final disposal at the admission stage.

1. The petitioners are challenging the common judgment and
order dated 06.06.2022 passed by the respondent no.2/Scrutiny
Committee, invaliding their claims for schedule tribe 'Koli Mahadev'.
They are real brothers and by common order their caste certificates
have been invalidated. Therefore both the petitions are being
decided together.

2. The petitioners rely upon caste validity certificate of their
father Yogesh, uncle Deepak, cousin Meghna. Meghna was issued
caste validity certificate vide order passed by the High Court.
Besides that reliance is placed on the affidavits, genealogy, vigilance
report and school record.

3. The learned AGP supports the impugned judgment and order. The Scrutiny Committee noticed that the school record of the relative was not compatible with the caste claim of the petitioners. There were contrary entries. The caste 'Telgu' was recorded in the school record of various relatives of the petitioners. It was further recorded that the validity certificates were not reliable because they were procured by suppressing material fact and on the basis of incomplete genealogy. In the case of cousin of the petitioners Meghna, it was revealed that there was suppression of facts and by playing fraud the order was obtained from the High Court. The Scrutiny Committee proposes to file a review petition. He lastly submits that the affinity test was also against the petitioners. The learned AGP would submit that the Scrutiny Committee did not commit any illegality or perversity.

4. The genealogy is produced on the record. It shows the relationship of the petitioners with the validity holders. The petitioner's father Yogesh and uncle Deepak were issued with the validity certificates. Meghna was issued with validity certificate after the intervention of the High Court. Order passed by the High Court in her case is placed on record.

5. The contrary entries, objection to the school record, the defect in the procedure for securing the validity certificates considered by the Scrutiny Committee and the High Court in the matter of close relatives of the petitioners. We find that this is a fit case to apply the principles of parity.

6. Though in the matter of Meghna, the Committee has decided to file a review petition till it is so filed and decided against her, the petitioners are entitled to have validity certificate on certain conditions. The impugned judgment and order is unsustainable. The petition is disposed of by following order.

ORDER

- (i) The judgment and order dated 06.06.2022 passed by the Scrutiny Committee is quashed and set aside.
- (ii) The Scrutiny Committee shall issue tribe validity certificate of scheduled tribe 'Koli Mahadev' in favour of both the petitioners immediately which shall be subject to following conditions:
 - (a) The caste validity certificate shall be subject to the outcome of the review proposed to be preferred by the Scrutiny Committee.
 - (b) The petitioners shall not claim any equity.
 - (c) The petitioners shall cooperate with the Scrutiny Committee.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]