

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

WRIT PETITION NO. 6761 OF 2023

**PRANITA D/O. BALAJI MASALGE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

Advocate for Petitioner : Mr. S.M. Vibhute
AGP for Respondents : Mr. S.K. Tambe

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

DATE : 12 JULY 2023

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

1. Heard learned counsel for the parties and taken up this matter for final adjudication with their consent.

2. The petitioner is assailing the judgment and order dated 06 September 2022, passed by the respondent no. 2 – Scrutiny Committee, invalidating her claim for ‘Koli Mahadev’ scheduled tribe. She is relying upon the validity certificate issued to her real brother Akshay. She has produced on record validity certificate of her father – Balaji, Prashant, affidavit of father, vigilance report and the order of High Court dated 01.08.2019, passed in case of Akshay in Writ Petition No. 9058 of 2019.

3. The Scrutiny Committee rejected her caste claim because

there were contrary entries in the school record of the blood relatives denoting caste as 'Koli'. The manipulation of the school record was noticed in the case of her father – Balaji, Aunt – Shilpa and Shakuntala. The affinity test was recorded against her.

4. The Scrutiny Committee discarded validity certificate because Vilas Vitthalrao was first validity holder. Vilas was issued validity relying on the validities of maternal side relatives. The validity certificates of remaining validity holders were based upon Vilas's validity.

5. Learned AGP supports the impugned judgment and order. He points out that the Scrutiny Committee has proposed to reopen the case of validity holders. Show cause notices are also issued.

6. It is noticed that the validity certificate of Akshay was issued in pursuance of order passed by High Court in Writ Petition No. 9058 of 2019.

7. We find that the validity certificate issued to brother – Akshay can be relied upon. There was no separate vigilance enquiry in the present matter. The enquiry conducted in Akshay's matter is considered in the present matter also. We do not find any procedural

illegality while granting validity certificate to Akshay. In the wake of said order, it is expedient to adopt same course by directing the Scrutiny Committee to issue validity certificate conditionally.

8. The impugned judgment and order passed by the Scrutiny Committee is unsustainable. We, therefore, pass following order :

- i. Writ Petition is partly allowed.
- ii. The judgment and order dated 06 September 2022, passed by the Scrutiny Committee, is quash and set aside.
- iii. The Scrutiny Committee shall issue tribe validity certificate to the petitioner for 'Koli Mahadev' scheduled tribe within a period of two weeks from today, on condition that the same shall be subject to the outcome of the revocation or cancellation of the validity of the blood relatives of the petitioner as proposed by the Scrutiny Committee.
- iv. The petitioner shall not claim any equity.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

spc/-