

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

WRIT PETITION NO.7204 OF 2023

1. Dhanraj Sambhaji Ishi
2. Dikshita d/o Dhanraj Ishi
under guardianship of Petitioner No.1 ... **PETITIONERS**

VERSUS

1. The State of Maharashtra
through its Secretary,
Tribal Welfare Department,
Mantralaya, Mumbai-32.
2. The Scheduled Tribe Certificate
Scrutiny Committee, Dhule
Sindhumanik, City Survey No. 5252,
Opposite Ekvira Devi High School,
Sharada Nagar, Vidya Nagar Area,
Devpur, Dhule- 424005.
3. The principal
R. C. Patel Polytechnic, Shirpur,
Survey No. 41/1, 41/A
Opposite Pharmacy Educational Campus
Near Balaji Nagar, Karwand Road, Shirpur
Taluka- Shirpur District- Dhule 425405 ... **RESPONDENTS**

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Advocate for Petitioner : Mr. Patil Jitendra Vijay
AGP for Respondents: Mr. A.S. Shinde

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

DATE : 14.09.2023

PER COURT :

Leave granted to add the petitioner No.2 - daughter whose claim has been decided by the scrutiny committee as a petitioner. Amendment to be carried out forthwith.

2. Heard both the sides. The petitioner is challenging the order of invalidation. They claim to be 'Koli Malhar' and the Committee has discarded it relying upon the oldest entry of one Bhilatai Bap Rupla Koli (Ishi) stated to be the petitioners' cousin great grandmother whose school record of 1940 refers her to be Hindu Koli. The Committee has also referred to the petitioner No.1's school record of recent origin of 1981 and 1986, wherein, he has been referred to be Hindu Tokare Koli.

3. After hearing both the sides it does appear that the school entry in respect of Bhilatai stated to be the oldest and adverse record is stated to be doubtful. The learned advocate for the petitioner points out that while seeking the vigilance inquiry, her name was included at serial No.6 later on. The submission of the learned advocate cannot be said to be wholly unsustainable. Even we have gone through the original file, wherein, there are two genealogies prepared by the same vigilance officer, wherein, in the first genealogy name of Bhilatai Bap Rupla Koli (Ishi) does not appear but that appears in the second genealogy, the rest of the genealogy being the same.

4. The submission of the learned advocate for the petitioners also seems to have some basis inasmuch as a copy of the school record containing the entry of Bhilatai which is in the form of a photocopy (page 74) issued under the signature of the Headmaster of the Zilla Parishad Primary School, Thalner, Tq. Shirpur District Dhule, also apparently shows that even the name of her father contains some overwriting

inasmuch as the letters 'rup' have been inserted subsequently.

5. Pertinently, in order to have the photocopies of the school record the Committee had solicited a fresh report from the vigilance officer, however, by the report dated 24.03.2023 he informed the Committee that the record pertaining to the persons at serial No.1 to 5 was not available being in a damaged condition and laminated. However, when it was directed to him to have photocopies of the register and when independently, at least two pages which are before us page No.73 and 74 are the photocopies may be of different registers, we cannot comprehend as to why the vigilance officer was unable to have the coloured photocopies of the register in whatever condition it is. In respect of page No.73, only entries of six columns are available, whereas, at page No.74 the entries up to seventh columns are available. It is this page No.74 which contains the entry of that Bhilatai.

6. It is in these peculiar circumstances, when it is a matter of social status which is not to be looked upon as adversarial litigation, it is a fit case where the matter needs to be remanded to the respondent - scrutiny committee which would enable it to undertake the inquiry afresh in the light of the above observations and would also simultaneously extend the opportunity to the petitioners to substantiate their claim of belonging to 'Koli Malhar' scheduled tribe.

7. We allow the writ petition partly, quash and set aside the impugned order and remand the matter back to the Scrutiny Committee

which shall undertake a fresh inquiry and decide the petitioner's proposal afresh by extending her an opportunity of being heard as expeditiously as possible and in any case within twelve weeks. Petitioners shall appear before the Committee on 25.09.2023.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)