

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9274 OF 2021

Deepak S/o Balaji Rodewad

.. Petitioner

Versus

1] The State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai

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

3] The Commissioner & Competent Authority,
Commissionerate of Common Entrance Test Cell,
Government of Maharashtra,
8th Floor, New Excelsior Building,
A.K. Naik Marg, Fort, Mumbai

.. Respondents

**WITH
WRIT PETITION NO. 9298 OF 2021**

Shital D/o Balaji Rodewad

.. Petitioner

Versus

1] The State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai

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

3] The Principal
Shree Datta Junior College
Naigaon (Ba), Tq. Naigaon (Kh)
Dist. Nanded

.. Respondents

...
Advocate for petitioner in both WPs : Mr. S.M. Vibhute
AGP for the respondent – State : Mr. S.G. Sangale
Advocate for respondent no. 3 in WP/9298/2021 : Mr. Shambhuraje Deshmukh
...

**CORAM : MANGESH S. PATIL &
NEERAJ P. DHOTE, JJ.**

DATE : 01 NOVEMBER 2023

JUDGMENT (MANGESH S. PATIL, J.) :

By way of these two separate writ petitions, the petitioners who are brother and sister *inter se*, are challenging the common order passed by the scrutiny committee invalidating their claims of belonging to Koli Mahadev scheduled tribe and confiscating and cancelling their tribe certificates.

2. Rule. Rule is made returnable forthwith. At the joint request of the parties, the matters are heard finally at the stage of admission.

3. The learned advocate for the petitioners Mr. Vibhute would vehemently submit that apart from the fact that there was sufficient evidence before the committee demonstrating that the petitioners' family belongs to Koli Mahadev scheduled tribe, three first degree cousins of their father Balaji have been issued with certificates of validity. The committee has refused to extend its benefit on the spacious plea of they having obtained certificates of validity by

resorting to misrepresentation and concealment of contrary record and has decided to reconsider the validities granted to them. However, till the time the certificates of validity are not confiscated and cancelled by following due process of law, the petitioners could not have been denied the benefit of having similar certificates of validity.

4. Mr. Vibhute would then submit that the observation of the committee about the school record of validity holder - Ramchandra Honaji Rodewad was manipulated, is also perverse. There was no manipulation. He would submit that the revenue record relied upon by the committee in the form of petitioners' cousin grandfather is also incorrect being perverse. There is no such mention about Koli caste. He would submit that the other contrary entries relied upon by the committee are in respect of the individuals with whom the petitioners had emphatically denied to have any blood relationship in the reply filed to the vigilance cell report. He would also point out that the vigilance enquiry was also conducted in the matter of Ramchandra Honaji Rodewad before he was found entitled to have a certificate of validity. Therefore, following the decisions in the matters of ***Apoorva d/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No.1 and others; 2010 (6) Mh.L.J. 401*** and ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and Ors.; 2023 SCC Online SC 326***, the petitioners be

granted certificates of validity; may be conditionally. Lastly, in response to the contrary entries relied upon by the committee in respect of the blood relatives Mr. Vibhute would submit that it was expressly mentioned in the reply to the vigilance report that those entries were made erroneously and the committee ought to have ignored it.

5. Per contra, the learned AGP would submit that there was consistent school record of the petitioners' blood relatives for a period prior to 1979 wherein the blood relatives were described as Koli. The favourable entries are only of a later period. The old record would prevail over the later one. The explanation being furnished by the petitioners about such entries having been made erroneously, is a lame excuse and the committee has rightly discarded it.

6. The learned AGP would also point out that even the petitioners' blood relative, who is in-fact a validity holder, namely, Ramchandra Honaji Rodewad had also indulged in manipulation. As mentioned in the order under challenge, the school record was found to have been tampered with. The original entry in the caste column was 'Koli' and the word 'Mahadev' has been inserted later in a different handwriting and ink. Similarly, even the revenue record of the cousin grandfather was contrary. He was described as Koli. This record of 1944 would carry greatest probative value. The committee has rightly weighed the evidence and has correctly discarded the claims.

7. The learned AGP would lastly submit that this Court in exercise of the powers under Article 226 of the Constitution cannot sit in appeal against the order of the scrutiny committee. Since the committee has taken a plausible view on correct appreciation of the evidence, the petitions be dismissed.

8. We have carefully considered the rival submissions and perused the papers.

9. Admittedly, the school record of the petitioners' blood relatives of the older time describe them as Koli. It is only after 1980 that the entries were taken as 'Koli Mahadev'. The petitioners in their response to the vigilance cell report have not disputed that this is the old school record of the blood relatives. Their stand is that it was a human error. The impugned order contains those entries in paragraph no. 6 which read as under :-

"06. Point no. 1 :- Do the claim of applicant proved by the documentary evidence ?

"Reasoning"

i) In the table in paragraph 02, Sr. No. 1, 12, 15 and 22 caste certificate of applicants, father and grandfather etc. have been submitted. Caste certificate is issued on the basis of prima facie evidence and without thorough enquiry. Also, as the caste certificate issued under Section 4(2) of Maharashtra Act No. XXIII of 2001 is valid subject to the verification by the committee, the said document does not serve as a valid evidence for verification of the claim.

ii) In the table at paragraph 2, Sr. No. 3, 4, 5, 6, 11, 24, 25, 26 and 27 applicants no. 1 and 2, their fathers' school documents have been submitted and their caste has been recorded as 'Koli Mahadev'. The said document has been registered in the recent period from AD 1982 to 2018, and

recorded deliberately for seeking the benefits of 'Koli Mahadev' scheduled tribe and the same can be corroborated by the following factual position.

A) During the investigation by the Police Vigilance Team as per paragraph 3(a)(i), in the applicant's case, the applicant's blood relatives cousin uncle, uncle, cousin aunt, cousin brother etc. their entries from school admission register and school leaving record were obtained as follows. Entries in the said school records were not submitted by the applicant along with the validity proposal :-

Sr. No.	School Admission & Leaving Extract Register No.	Student Name	Relationship with applicant	Caste recorded	Admission Date
1	172	Kevalbai Dhondiba Rodewad	Cousin aunt	Koli	--
2	21	Tukaram Dhondiba Rodewad	Cousin uncle	Koli	05-08-1951
3	1/Old	Ramkishan Honaji Rodewad	Cousin uncle	Koli	22-01-1963
4	1/Old	Baliram Hounaji Rodewad	Cousin uncle	Koli	07-07-1969
5	1/Old	Madhav Gyanoba Rodewad	Uncle	Koli	02-07-1971
6	1/Old	_____shwar Shivaji Rodewad	Cousin uncle	Koli	06-07-1971
7	2/Old	Ramkishan Honaji Rodewad	Cousin uncle	Koli	06-07-1972
8	2/39	Uttam Gyanoba Rodewad	Uncle	Koli	03-07-1973
9	297	Parvatibai Sopan Rodewad	Cousin aunt	Koli	22-07-1974
10	2/Old	Bali Honaji Rodewad	Cousin uncle	Koli	18-08-1975
11	406	Balaji Bhanudas Rodevad	Cousin brother	Koli	27-06-1977

10. When there is no dispute about the fact that these individuals are petitioners' blood relatives and this is the consistent record right from 1951, following the decision in the matter of ***Anand Vs. Committee for Scrutiny and Verification of Tribe Claims and others; (2012) 1 SCC 113*** and these being the older entries would carry a greater probative value as compared to the favourable entries of 'Koli Mahadev' in the subsequent period. Admittedly, it is only in the latter time, the favourable entries have been made. The observations of the committee based on such older entries in preference to the entries of the latter time, cannot be said to be perverse or arbitrary.

11. The explanation being offered by the petitioners that it was a human error which had occurred due to the illiteracy had been

discarded by the committee being improbable and we see no reason as to how such inference of the committee could be questioned.

12. Needless to state that Koli caste which was earlier falling under Other Backward Category, was subsequently inserted in Special Backward Category whereas 'Koli Mahadev' is a scheduled tribe. One need not delve deep to understand the difference. The very fact that the presidential order marks a distinction between the two which entries have sanctity and have to be interpreted strictly as laid down in the matter of ***State of Maharashtra Vs. Milind Katware; (2001) 1 SCC 4***. It cannot be said that the entry in the school record as 'Koli' could have been merely an error rather this would be drastically inconsistent with the petitioners' claim of belonging to 'Koli Mahadev' scheduled tribe.

13. Besides, we have also perused the revenue record wherein admittedly petitioners' cousin grandfather - Honaji Mahadu has been described as Koli. Obviously, this being the revenue record, there would not be any caste column, however, the fact remains that he was described therein as Koli. Since it is a pre-constitutional record of the year 1944, the fact that he was described as 'Koli' and not as 'Koli Mahadev' coupled with the afore-mentioned subsequent school record describing the family members as 'Koli', any conjunction would be sufficient to describe the petitioners' claim. The decision of the

committee is indeed based on a plausible appreciation of the material before it and we see no perversity or arbitrariness therein so as to compel us to exercise the power under Article 226 of the Constitution.

14. As has been rightly submitted by the learned AGP, this Court cannot sit in appeal and re-appreciate the evidence. When we have found that the inference drawn by the committee is based on plausible appreciation of the evidence and is not perverse or arbitrary, the decision cannot be interfered with.

15. Besides, we have also verified the coloured photocopy of the school record of validity holder Ramchandra Honaji Rodewad wherein he was admitted in the school on 01-08-1980. In the caste column, there is apparent manipulation inasmuch as word 'Koli', which seems to be the original entry, has subsequently been manipulated by inserting the word 'Mahadev' which is in different handwriting and ink. This fact we have verified from the coloured photocopy of the school record available in the original file.

16. If such is the state-of-affairs, one cannot take exception to the observation of the committee that there was an attempt at manipulation of the record as well by the near blood relatives. This would be additional circumstance which justifies the inference drawn by the committee in refuting the petitioners' claims.

17. In the normal course, when there are certificates of validity in the blood relations, benefit has to be extended, as has been laid down in the matter of ***Apoorva D/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee no. 1 and others; 2010 (6) Mh.L.J. 401 and Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others; 2023 SCC Online SC 326***. However, it is to be borne in mind that the decision in the matters in hand, is based on the evidence that was not available before the then scrutiny committees which had granted the certificates of validity to the blood relatives.

18. If pursuant to the vigilance enquiry, the committee has been able to lay its hands on the afore-mentioned voluminous material which is contrary to the petitioners' claims, in our considered view, the petitioners are not entitled to have certificates of validity even with a rider that those would be subject to the final outcome of the matters of the validity holders which the committee has decided to re-scrutinize. Therefore, according to us, the petitioners are not entitled to derive the benefit of the validities in the family.

19. We, for the afore-mentioned reasons, are of the firm view that the petitions are without merit and are liable to be dismissed.

20. Writ petitions are dismissed.

21. Rule is discharged.

[NEERAJ P. DHOTE]
JUDGE

[MANGESH S. PATIL]
JUDGE

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