

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

952 WRIT PETITION NO.5706 OF 2019

PRIYANKA KISHANRAO GUNGWAD
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr. Golegaonkar Madhur A. And Mr. Golegaonkar Anil S.
AGP for the respondent – State : Mr. S.G. Sangale
...

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

DATE : 27 SEPTEMBER 2023

ORAL ORDER (MANGESH S. PATIL, J.) :

Heard both the sides for final disposal. Considering the urgency mentioned by the learned counsel for the petitioner, this matter is taken up for final adjudication.

2. The petitioner is challenging judgment and order dated 12.07.2018, invalidating caste claim of the petitioner of 'Koli Mahadev' scheduled tribe. Her grievance is that in spite of having eight validity certificates from his paternal side close relatives, she is being denied the validity certificate. In support of her claim, a genealogy is placed on record which is at page no. 35. During the course of hearing the reasoned orders passed by the Scrutiny Committee validating the certificates of Chandrakant Govindrao Gungewad, Balaji Narsingrao Gungewad are placed on record. The extract of vigilance report in case

of Chandrakant Gungewad is placed on record by learned counsel for the petitioner.

3. Learned AGP is supporting the impugned judgment and order. According to him, the Scrutiny Committee has rightly discarded the validity certificate because the genealogy is doubtful. There is suppression of order of invalidity passed in case of Sangita. The validity certificates were obtained suppressing material facts. It is further informed that the Scrutiny Committee has issued show cause notice to the validity holders.

4. The genealogy is placed on record at page no. 35. It is pointed out that there are eight validity holders in the family of the petitioner, namely Balaji, Gajanan, Chandrakant, Sujata, Suryakant, Kishan, Jairam and Durgesh. Pertinent to note that Kishan is the father of the petitioner. The reasoned orders passed in case of Chandrakant and Balaji are also placed on record. It is seen from those orders that they were issued with validity certificates on the basis of documentary evidence on record. Therefore, submission of learned AGP that the order of invalidation passed in case of Sangita D/o. Narsing Gungewad was suppressed is *sans* merit. The suppression of the invalidity of the close relative does not act as a *res judicata*. Every matter of the claimant has to be adjudicated on the basis of material on record and it is an individual centric enquiry.

5. It is matter of record that after following due procedure of law, validity certificates were issued to Chandrakant and Balaji. The contrary entries and the relevant material was taken into account by the Scrutiny Committee. It would not be out of place to mention that contrary entries which are at page no. 86 bearing admission number 2525 and 2224 were considered in the matter of Balaji and, thereafter, the validity was issued. Similarly, order of invalidation in case of Sangita was placed before the Committee in matter of Balaji. Therefore, we are of the view that validity certificates of Balaji and Chandrakant can form basis for validating petitioner's claim.

6. Learned counsel for the petitioner would submit that the contrary entries in respect of the alleged manipulation of the school record of petitioner's father and aunt is already explained by the petitioner in reply which is at page no. 73. In case of petitioner in the application for admission, the caste was mentioned as 'Koli Mahadev'. However, in the school record it was mentioned as 'Mahadev Koli'. The procedure was followed under Rule 26.4 of the Secondary School Code and obvious mistake was corrected. Similar is their explanation in case of admission entry no. 2286 in case of petitioner's paternal uncle and petitioner's aunt. We find that this explanation is satisfactory to dispel the allegations of manipulation in the school record.

7. The submissions of the learned AGP that genealogy in the matter of Chandrakant is suspicious, the validity holders suppressed

material facts cannot be gone into. In the absence of the validity holders before us, we cannot pass any adverse comment. The Scrutiny Committee has already issued show cause notices to them. Therefore, it would be in the fitness of the things to grant conditional validity to the petitioner.

8. We hold that impugned judgment and order is discriminatory and liable to be quashed and set aside. We, therefore, pass following order :

- i. The impugned judgment and order dated 12.07.2018, is quashed and set aside.
- ii. The Scrutiny Committee shall issue caste validity certificate in favour of the petitioner for 'Koli Mahadev' scheduled tribe within a period of two weeks from today on following conditions :
 - a. That the validity certificate shall be subject to the result of re-verification of the validity certificates undertaken by the Scrutiny Committee.
 - b. That the petitioner shall not claim any equity.
- iii. Writ Petition is disposed of in above terms.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/