

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

**WRIT PETITION NO. 5856 OF 2019
AND
CIVIL APPLICATION NO. 5751 OF 2020 IN WP/5856/2019**

Shantanu S/o Narayan Yenchanwad

.. Petitioner

Versus

- 1] The State of Maharashtra
Through the Secretary
Tribal Development Department
Mantralaya, Mumbai
- 2] The Scheduled Tribe Certificate
Scrutiny Committee,
Aurangabad Division,
Plot No. 10, Sector E-1,
Near Saint Lawrence High School,
Opp. CIDCO Bus Stand, Aurangabad
- 3] The Deputy Collector [Elections]
Collectorate, Latur
- 4] The Chairperson / Commissioner
Commissionerate, CET Cell
(Competent Authority)
State of Maharashtra
8th Floor, New Extension Building,
A.K. Nayak Marg, Fort, Mumbai
- 5] The Director,
Directorate of Medical Education & Research
St. George's Hospital, Near CSMT, Mumbai

.. Respondents

...
Advocate for Petitioner : Mr. A.S. Golegaonkar h/f Mr. M.A.Golegaonkar
AGP for Respondent Nos. 1 to 3 : Mr. S.G. Sangale
...

**WITH
WRIT PETITION NO. 7043 OF 2019**

Shubham S/o Narayan Yanchanwad

.. Petitioner

Versus

- 1] The State of Maharashtra,
Tribal Development Department,
Mantralaya, Mumbai – 32.

2] The Scheduled Tribe Caste
Scrutiny Committee,
Aurangabad Division,
Aurangabad
Through its Member Secretary

3] The Dy. Collector (Elections)
Collectorate, Latur

.. Respondents

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

DATE : 29 AUGUST 2023

ORDER (MANGESH S. PATIL, J.) :

Petitioners are the real brothers challenging the common order passed by the respondent scrutiny committee invalidating their tribe claim of Koli Mahadev scheduled tribe.

2. The impugned order is a common order and, therefore, both these petitions are being decided together.

3. The learned advocate for the petitioners would submit that the petitioners' father possesses a certificate of validity. Even if the committee now entertains a doubt about the documents relied upon by him while obtaining the certificate of validity and castigates him of having practised fraud, so long as the certificate of validity issued to him is not confiscated and cancelled by following due process of law, the petitioners cannot be deprived of the benefit of having the certificates of validity.

4. The learned advocate further submits that the petitioners are ready to run the risk of facing the consequences as laid down in the matter of ***Shweta Balaji Isankar Vs. State of Maharashtra and others (writ petition no. 6320 of 2017)***.

5. The learned AGP supports the order and submits that false and bogus record of a Court was obtained by the petitioners' father while obtaining the certificate of validity. In writ petition no. 4297 of 2007 pursuant to the order of this Court, the certified copies issued by the Udgir Court were subjected to an enquiry by the Principal District Judge, Latur who has found the record to be forged one. Therefore, the committee has rightly refused to extend the benefit of petitioners' father's validity to them.

6. The learned AGP would further submit that even contrary record was concealed from the committee while obtaining certificate of validity and the committee has now decided to undertake a fresh scrutiny of Narayan's claim.

7. It does appear that the committee seems to have taken a decision to undertake a fresh scrutiny of petitioners' father's claim for the reasons elaborated in the impugned order. We need not delve about the powers of the committee to undertake such re-scrutiny since it is not a subject matter of these petitions.

8. As far as fraud is concerned, we do not intend to make any comment on the aspect of the powers of the committee to undertake a review and the facts which according to the committee constitute fraud or misrepresentation. We are doing so for two reasons; firstly the validity holders are not before us and we do not intend to cause any prejudice to them by making observations in this matter behind their back and secondly, any observation made by us could have a bearing on the matters which the committee has decided to re-open.

9. It is pertinent to note that the impugned order was passed way back on 12-07-2018, though the committee has expressed its intention to undertake a fresh scrutiny, till date, it has not been able to take that decision to the logical end for more than 5 years. If such is the state-of-affairs, till the time Narayan's certificate of validity is not confiscated and cancelled, the petitioners cannot be denied to have its benefit more so when they are ready to face the consequences as contemplated in the matter of **Shweta Balaji Isankar** (supra).

10. Hence the following order :-

I) The writ petitions are partly allowed. The impugned order is quashed and set aside. The respondent-committee shall immediately issue tribe validity certificates to the petitioners as belonging to 'Koli Mahadev' scheduled tribe in the prescribed format

without incorporating other conditions/additions. The validities shall be subject to the final outcome of the matters which the committee has decided to re-open.

II) The petitioners shall not be entitled to claim equities.

III) The learned A.G.P. to immediately communicate the committee about passing of this order and issue validity certificates immediately.

IV) The Civil Application No. 5751 OF 2020 is disposed of.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/