

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**BENCH AT AURANGABAD****Writ Petition No. 8251 / 2023**

Sukhada d/o Sudarshan Honwdajkar,
Age 19 years, Occu. Education,
R/o. Kundalwadi, Tq. Biloli
Dist. Nanded.

...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.

...Respondents

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Mr. S. M. Vibhute, Advocate for the Petitioner
Mr. S. K. Tambe, AGP for Respondent/State

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

DATE : 13 JULY, 2023.

FINAL ORDER [PER : SHAILESH P. BRAHME, J.] :

. Heard both the sides for final disposal.

1. The petitioner is challenging judgment and order dated

04/07/2023 passed by the respondent no.2/Scrutiny Committee, invalidating her caste claim for scheduled tribe 'Koli Mahadev'. The learned Advocate submits that despite having validity certificates of blood relatives, the claim was rejected, is a perversity. Chandraprakash is contended to be first validity holder. The vigilance report in his matter is placed on record. The contrary entries and all other circumstances were taken into account, while issuing validity certificates to father-Sudharshan, Uncle-Gangadhar, cousin-Shankar and Chandraprakash.

2. Per-contra the learned AGP submits that the Scrutiny Committee rightly rejected the claim holding that there were contrary entries and manipulation of school record was noticed in respect of Raghunath, Laxmikant and Gangadhar. The Scrutiny Committee correctly recorded findings that the validity certificates were obtained by suppressing material facts and without following due procedure of law.

3. The learned AGP submits that the affinity test was against the petitioner. He points out from the file produced for our perusal that there is glaring manipulation of the record in case of Laxmikant, Gangadhar and Sudarshan. He submits that it is a case of brazen fraud, which needs to be taken seriously.

4. The petitioner has produced on record validity certificates of

Chandraprakash, Sudarshan, Gangadhar, Shankar. At page no.21, there is report of vigilance enquiry conducted in the matter of Chandraprakash. After due procedure of law, Chandraprakash was issued with the validity certificate. The validity holders are close relatives of the petitioner from the paternal side. There is no dispute about genealogy at page no.29. In view of this cogent material on record, we find that the petitioner is entitled to the validity certificate.

5. The learned AGP has tried to point out the manipulation from the original record. At this juncture, it is not appropriate for us to comment upon the allegations. The Scrutiny Committee has already decided to reopen matters of validity holders.

6. We are guided by the law laid down by the Supreme Court in case of **Maharashtra Adavasi Thakur Jamat Swarakshak Samiti vs. State of Maharashtra & others** reported in 2023(2) Mh.L.J.785 and in the case of **Apoorva Nichale Vs. Divisional Caste Certificate Scrutiny Committee and Others**, reported in 2010(6) Mh.L.J. 401.

7. The impugned judgment and order is arbitrary and unsustainable. We therefore pass the following order.

ORDER

(i) The writ petition is partly allowed.

- (ii) The judgment and order dated 04/07/2023 passed by the respondent no.2/Scrutiny Committee, is quashed and set aside.
- (iii) The Scrutiny Committee shall issue validity certificate in favour of the petitioner for 'Koli Mahadev' within a period of two weeks on following conditions ;
 - [a] the validity certificate shall be subject to the outcome of the revocation/cancellation proceedings of validity certificates of the close relatives of the petitioner as proposed by the Scrutiny Committee.
 - [b] the petitioner shall not claim any equity.
 - [c] the petitioner shall cooperate with the Scrutiny Committee.
- (iv) In view of above terms, the writ petition is disposed of.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]