

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

**WRIT PETITION NO. 8450 OF 2023**

1] Soham Shivaji Hendage

2] Shubham Shivaji Hendage

.. Petitioners

Versus

1] State of Maharashtra through its  
Secretary, Tribal Development Dept.  
Mantralaya, Mumbai – 400 032

2] Scheduled Tribe Caste Certificate  
Scrutiny Committee, Aurangabad  
through its Member Secretary having  
its office at Kashmira Bhuwan,  
Station Road, Dist. Aurangabad

.. Respondents

...  
Advocate for petitioner : Mr. R.K. Mendadkar h/f. Mr. S.S. Phatale  
AGP for the respondent – State : Mr. S.G. Sangle  
...

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

**DATE : 28 JULY 2023**

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

Heard.

2. The petitioners who are brother and sister are challenging the order passed by the scrutiny committee in a proceeding under section 6 of the Maharashtra Act no. XXIII of 2001 (**Act**), thereby confiscating and cancelling their certificates as belonging to *Koli Mahadev*.

3. We have heard both the sides finally and in view of the exigency inasmuch as the petitioners are aspiring to take admission through the ongoing NEET-UG-2023 process.

4. Learned advocate for the petitioners would submit that the school record of petitioner's grandmother Sojrabai and uncle of the petitioner's father Tukaram of the year 1959 describing them as *Koli Mahadev* was available to be looked into. It was relied upon to issue validity certificate to the petitioners' father. There were no contrary entries. So long as the validity certificate of Shivaji is not confiscated and cancelled, the petitioners cannot be deprived of the benefit.

5. Mr. Mendadkar h/f. Mr. Phatale for the petitioners would further submit that vigilance was conducted during the proposal of petitioners' father Shivaji. If something was not traced during that enquiry, the petitioners could not have been blamed by the present committee. There was no question of petitioners hiding anything. Inefficiency of the vigilance cell cannot refrain the petitioners to put up a tribe claim and the petitioners be granted the validity certificates.

6. The learned AGP referring to the original record of the mother of Shivaji and the petitioners would submit that Shivaji was granted validity certificate relying upon the school record of his mother Sojrabai and uncle Tukaram. However, the original school record

depicted clear manipulation, over-writing which could be revealed during the vigilance enquiry in the present matter. Coloured photocopies were collected and even to a naked eye, such manipulation is visible. Rest of the entries in the school record of the blood relatives were *Koli* which is a Special Backward Category as distinguished from *Koli Mahadev* which is a scheduled tribe. All these entries, therefore, constitute contrary entries. No error was committed in treating them as such and refusing to give benefit of the validity of the petitioner's father – Shivaji. He would also place before us the order passed by this Court in the matter of **Sandeep Jayaram Sonawane Vs. The State of Maharashtra and others** (writ petition no. 8627 of 2023 dated 24-07-2023) to show that *Hindu Koli* and *Suryawanshi Koli* have been treated as contrary entries in the matter for validation of *Tokare Koli* scheduled tribe.

7. The learned AGP also informs that the committee has already undertaken a fresh scrutiny in the matter of Shivaji and his sister Savita. The matter was listed yesterday before the committee but both of them did not turn up.

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

9. Admittedly, the petitioners' father Shivaji and paternal aunt Savita are the validity holders *albeit* the committee has now decided to re-open their cases. So long as their validity certificates are not confiscated and cancelled, in the light of section 7(1) of the Act, the petitioners cannot be deprived of the benefit.

10. As alleged by the learned AGP, if they are not co-operating the committee in conducting the hearing after re-opening of the matter, they can be bound by a specific order but that cannot be a reason to ignore their validities for the time being.

11. True it is that in the light of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others; 2023 SCC Online SC 326***, it is only if the validity certificates have been issued in accordance with the rules and by following due process of law that such validities are supposed to be relied upon.

12. Attempt of the learned AGP to take us through the coloured photocopies of the school record of Sojrabai and Tukaram does not appeal to us for the simple reason that that could be a matter directly and substantially in issue before the scrutiny committee which is now undertaking a fresh enquiry in respect of petitioners' father Shivaji and his sister Savita. Considering the limited scope of the scrutiny committee to embark upon reconsideration of the validity

certificates, we do not intend to make any observations in that regard which could have even remotely some bearing on the ongoing enquiry.

13. True it is that the committee has also been referring to several entries as *Koli* but all these entries are of period subsequent to the entries in the school record of Tukaram and Sojrabai. It would depend upon the approach of the committee and its decision in the re-opened matters as to the stand it would be taking in respect of the school record of both these individuals. We, therefore, refrain from examining even that aspect of the matter which we expressly keep open.

14. Considering the exigency now that the petitioners are seeking to enter into the admission process for admission to the undergraduate medical courses, we allow the writ petition partly and quash and set aside the impugned order and direct the scrutiny committee to immediately issue the tribe validity certificates to the petitioners as *Koli Mahadev* which shall be subject to the final outcome of the re-opened case of the petitioners' father – Shivaji and their paternal aunt Savita.

15. The petitioners shall not claim any equities.

16. The petitioners' father and paternal aunt shall co-operate the scrutiny committee in early decision of the re-opened matters.

The committee shall decide those matters as expeditiously as possible and in any case within six (6) months. Any lapse on the part of the petitioners' father and paternal aunt in co-operating the committee will be considered as a circumstance to recall this order.

17. The petitioners' father and paternal aunt shall remain present before the committee on 22 August 2023 which is the due date before the scrutiny committee.

**[ SHAILESH P. BRAHME ]**  
**JUDGE**

**[ MANGESH S. PATIL ]**  
**JUDGE**

arp/