

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

1057 WRIT PETITION NO.9716 OF 2021

Mayuri d/o Shrikrishna Punjarwad ... **PETITIONER**

VERSUS

1. The State of Maharashtra
through its Secretary,
Medical Education and Drugs Department
Mantralaya, Mumbai
2. The Scheduled Tribe Caste Certificate
Verification Committee, Aurangabad
through its Dy. Director (R)
Aurangabad
3. The Dean,
Shri Vasantrao Naik Government
Medical College, Yawatmal,
Dist. Yawatmal
4. The Registrar,
Maharashtra University of Health
Sciences, Dindori Road, Mhasrul/
Nashik, District-Nashik.
5. 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**

AND

1058 WRIT PETITION NO.9724 OF 2021

Kiran s/o Shrikrishna Punjarwad ... **PETITIONER**

VERSUS

1. The State of Maharashtra
through its Secretary,
Tribal Developments Department
Mantralaya, Mumbai
2. Scheduled Tribe Caste Certificate
Verification Committee, Aurangabad
through its Dy. Director (R)
Aurangabad
3. The Principal,
Rajarambapu Institute of Technology,
Rajaram Nagar, Islampur,
Dist. Sangli ... **RESPONDENTS**

...
 Advocate for the Petitioner in both petitions : Mr. S.M. Vibhute
 A.G.P for the Respondents/State : Mr. S.G. Sangale
 Advocate for respondent No.5 : Mr. S.G. Karlekar (WP/9716/2021)
 ...

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

DATE : 03.08.2023

ORDER (MANGESH S. PATIL, J.) :

By way of these separate petitions the brother and sister are challenging the common order passed in their matters, whereby, the respondent – Scrutiny Committee has confiscated and cancelled their tribe certificates as “Koli Mahadev” scheduled tribe.

2. Considering the urgency, these matters have been taken up for final hearing at admission stage.

3. The learned advocate for the petitioners submits that the petitioners’ father Shrikrishna has been granted validity certificate in the year 2008. Real paternal uncle Suryabhan has been granted validity certificate in the year 2009 and two of his son Balaji and Shivshankar have also been issued with validity certificates. There being no dispute about these validity holders being petitioners’ blood relations, even if the Committee has now observed that those were obtained by resorting to fraud or misrepresentation and has intended to reopen their validities by undertaking a review, the petitioners’ deserve to be given conditional validities. He would submit that there was no sound reason for the

Committee to discard these validities, merely on the basis of suspicion. The approach of the Committee is illegal. The learned advocate would also submit that in spite of removal of area restrictions and in spite of limited application of affinity test the Committee has resorted to both. The petitioners are ready to possess a conditional validity at their own risk and would not claim any equities.

4. The learned AGP strongly opposes the petitions. He supports the order. He submits that the Committee has meticulously undertaken the scrutiny and has found several contrary entries which were concealed when the validity holders obtained the validity certificates. This being the misrepresentation and fraud the Committee is entitled to undertake its reconsideration. The petitioners are not entitled to derive benefits of such validities.

5. We have considered the rival submissions and perused the papers. Considering the arguments advanced by both the sides on the alleged fraud, we need to emphasize the fact that since the Committee has now decided to undertake a reverification of the validity holders' certificates, the circumstances which according to the Committee constitute fraud, in our considered view can be taken care of by the Committee in those matters to be reopened. Suffice for the purpose to observe that since the petitioners' father, paternal uncle and his two sons who are the validity holders are not before us, any comment made by us in this order touching the aspect of alleged fraud could have a bearing on the inquiry to be undertaken by the

Committee and would cause a serious prejudice to them. We are, therefore, consciously avoiding to undertake that scrutiny.

6. It is pertinent to note that though the Committee has expressed its intention to undertake a reconsideration of all the validity certificates, the impugned order was passed in the year 2021 and till date no step has been taken in that direction. Therefore, it would not be proper on the part of the Committee to refuse to rely upon the validities for the alleged fraud but take its own time in taking the matters to its logical end.

7. Consequently, so long as the validity certificates are not confiscated and cancelled, by resorting to due procedure of law, the petitioners cannot be deprived of the benefit when these validity certificates hold the field since long back.

8. The writ petitions are partly allowed. The impugned order is quashed and set aside. The committee shall immediately issue tribe validity certificates to the petitioners as belonging to '*Koli Mahadev*' scheduled tribe, which shall be subject to the decision to be taken by the committee in the reopened matters.

9. The petitioners shall not be entitled to claim equities.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)