

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

WRIT PETITION NO. 8654 OF 2023

Prachi D/o Ramchandra Sapkale

...Petitioner

Versus

Scheduled Tribe Certificate Scrutiny Committee, Dhule

Through its Member Secretary

...Respondents

...

Advocate for Petitioner : Mr. Sagar S. Phatale

AGP for Respondent/State : Mr. S. K. Tambe

...

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

DATE : 08 AUGUST 2023

ORDER (Shailesh P. Brahme, J.) :

1. Heard both the sides finally. Considering the urgency, the matter is taken up for final adjudication at the admission stage.

2. The petitioner is challenging the judgment and order dated 03.07.2023 passed by the respondent/Scrutiny Committee, invalidating her claim for Tokre Koli scheduled tribe. She is relying upon the validity certificates issued to paternal side close relatives. She is also relying upon the orders passed by the High Court in the matter of Vrishikesh Gorakshanath Sapkale and Raj Gorakshanath Sapkale.

3. The learned AGP supports impugned judgment and order. The Scrutiny Committee is justified in recording that there were contrary entries in the school record to establish that the caste was Koli or Hindu

Koli. The affinity test was also against the petitioner. The validity certificates were not secured by following due procedure of law. It is further informed that the Scrutiny Committee has decided to reopen the matters of validity holders.

4. It is seen from the record that the petitioner is relying upon the validity certificates issued to Pundlik Tulshiram Sapkale, Gorakshanath Tulsiram Sapkale, Raj Gorakshanath Sapkale and Vrishikesh Gorakshanath Sapkale. The relationship of the petitioner with them is undisputed. The genealogy which is placed on record at page no.39 shows that the validity holders are the paternal side relatives of the petitioner. Out of them, two received the validity certificates by the intervention of the High Court. The orders passed by the High Court in the matter of Raj Gorakshanath Sapkale in Writ Petition No.375/2021 and in the matter of Vrishikesh Gorakshanath Sapkale in Writ Petition No.11158/2017 are placed on record.

5. We have gone through the orders passed by the High Court in above matters. On the same set of record, the High Court issued the validity certificates conditionally. We do not have any inclination to take contrary view. We propose to adopt the same course. We, therefore hold that the petitioner is entitled to validity certificate on certain conditions.

6. In view of the above referred circumstances, we hold that the

Scrutiny Committee has committed patent illegality in rejecting the caste claim of the petitioner and the impugned judgment and order is unsustainable. We, therefore, pass the following order.

ORDER

- A. The writ petition is partly allowed.
- B. The impugned order dated 03.07.2023 passed by the respondent/ Scrutiny Committee is quashed and set aside. The Scrutiny Committee shall issue tribe validity certificate to the petitioner as belonging to 'Tokre Koli' (Scheduled Tribe) by tomorrow.
- C. It shall be subject to the decision/outcome in the matters to be reopened by the Committee of the validity holders.
- D. The certificate of validity shall be issued in the prescribed format without incorporating other conditions.
- E. The petitioner shall not be entitled to claim equities.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]