

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

WRIT PETITION NO.9041 OF 2019

RUSHALI RAOSAHEB TOURE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

AND
WRIT PETITION NO.9074 OF 2019

RUSHIKESH RAOSAHEB TOURE
THROUGH FATHER RAOSAHEB NARAYAN TOURE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

....
Advocate for Petitioner : Mr. Vibhute Sunil M.
AGP for Respondent Nos. 1 & 2 : Mr. A.A. Jagatkar
....

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

DATED : 22 AUGUST, 2023

PER COURT (PER : SHAILESH P. BRAHME, J) :

1. Heard learned counsel for both the sides finally, in view of urgency.
2. The petitioners are siblings. By common judgment and order dated 18.07.2019, their caste claims were invalidated. Hence, both the petitions are decided by this common order.
3. The petitioners are relying upon the validity certificates issued to father Raosaheb, uncle Bhausahab and cousin uncle Angad.

They also rely upon the record including old entries which was considered while granting validity to their father.

4. Learned AGP supports the impugned judgment and order. According to him, the Scrutiny Committee is justified in rejecting caste claim because there were contrary entries and manipulation in the school record. He would submit that the validity certificate of the father of the petitioners is unreliable being obtained by suppression of facts and on the basis of the record of maternal side relative.

5. Learned AGP has produced on record original papers of the petitioners and their father Raosaheb.

6. The genealogy which is placed on record at page no. 14 is not disputed by the respondents. There was vigilance enquiry conducted in case of father of the petitioners. The report which is seen from the original papers shows that various documentary evidence are taken into account.

7. The old entry of grandfather of the petitioners Narayan Kashinath Toure was also considered. By reasoned order, father was issued with validity certificate. The Scrutiny Committee should not have discarded the validity certificate.

8. The old record of 1955 of Narayan Kashinath Toure indicates caste as 'Koli Mahadev'. It has a greater probative value. Similar is the case with revenue record of Kashinath Saduba. The successive Committee on the self same record cannot deny social status when the blood relatives were already issued with validity certificates.

9. Learned AGP has informed that show cause notices are issued. It is open for the Scrutiny Committee to take into account objections of tampering of record, suppression of material facts in securing validity certificates. In our writ jurisdiction, we would prefer not to comment on these aspects. We are of the considered view that the petitioners are entitled to conditional validity. The impugned judgment and order is not sustainable.

10. For the reasons stated above, we pass following order :

ORDER

- i. The Writ Petition is partly allowed.
- ii. The impugned judgment and order is quashed and set aside.
- iii. The Scrutiny Committee shall forthwith issue tribe

validity certificates to the petitioners as belonging to 'Koli Mahadev' scheduled tribe, on a condition that the validity certificates shall be subject to final outcome of the re-verification undertaken by the Scrutiny Committee.

iv. The certificates of validity shall be issued strictly in the prescribed format without incorporating other conditions /additions.

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

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)