

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

WRIT PETITION NO. 9200 OF 2023

Shubham Madhavrao Nayane
and another .. Petitioners

Versus

The State of Maharashtra and another .. Respondents

Shri Anandsingh S. Bayas, Advocate for the Petitioners.
Shri A. A. Jagatkar, A.G.P. for the Respondent Nos. 1 and 2.

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

DATE : 31 JULY 2023.

FINAL ORDER :

. Heard the learned advocate for the petitioner and the learned Assistant Government Pleader. The petitioners are challenging the self same order passed by the respondent No. 2/Scrutiny Committee confiscating and cancelling their tribe certificates as belonging to “Koli Mahadev” (Scheduled Tribe).

2. Considering the fact that the petitioners are aspiring to go for further studies in the on going admission process and today being the last date for uploading the documents the matter has been taken up for final disposal at admission stage with consent.

3. The petitioners who are cousins *inter-se* are seeking validity certificates based on the validity granted to petitioner

Shubham's father by name Madhav Nayane.

4. Though both the sides have taken us through the original record and Mahdavi's file, it is to be noted that he was before this Court aggrieved by the invalidation. The writ petition was allowed partly and the matter was remanded to the Scrutiny Committee for decision afresh and pursuant to such directions and after remand, by detailed order dated 08 May 2009 Madhav Nayane was granted validity certificate.

5. Pertinently the then Committee had considered all the circumstances which in the present matter Committee has resorted to invalidate the claims. In our considered view, if all the circumstances which were before the Committee at the time of Madhav's claim and has undergone the scrutiny, in the present matter, the successor committee could not have indulged into scanning the self same piece of evidence to arrive at a different conclusion. If such a course is allowed to be followed then there would not be any finality.

6. It is not that the Committee is attributing some allegations of fraud. The oldest document in the form of agreement scribed in Urdu language on a stamp paper bearing No. D-372020 was already before the earlier Committee which piece of evidence weight while validating Madhav's claim. The present Committee has again entertained a doubt ignoring the fact that there is no material to show that the stamp paper purported to have been

printed at Nashik Security Press. The document was sent to it and some opinion has been obtained that the stamp paper was not printed and circulated by it. In our considered view so long the Committee did not have any record to demonstrate that the stamp paper was printed at Nashik Security Press, there was no point in soliciting its views.

7. We can take a judicial note of the fact that this agreement was purportedly executed within the erstwhile Nizam State, whereas Nashik was under the British rule. There was no evidence before the Committee to show that this stamp paper was got published by the Nizam State from the Nashik Security Press.

8. Besides, we have already observed that when the self same document has undergone scrutiny at the hands of earlier Committee, the successor Committee could not have indulged into another scrutiny.

9. The same is the case with other circumstance in the form of some alleged manipulated record of the Udgir Court, wherein some FIR was stated to be registered describing the petitioners' ancestor as Mahadev Koli, which has been found to be forged one in an enquiry conducted by the Principal District Judge, Latur. Self same circumstance was also available to be considered by the then Committee and was specifically referred to in its order.

10. The validities relied by Madhav from the maternal side is another reason for the present committee for not to grant the benefit of that validity to the present petitioners. But again, affidavits of both the maternal side relatives were before the Committee which has considered it and still granted validity certificate to Madhav Dattatraya Nayane.

11. The only circumstance that now Committee entertains doubt about the petitioners' claim is three entries which it has reproduced in the order of some individual stated to be the great great grandfather and great grandfather of the petitioners, in the form of revenue record wherein in describing the names they have been described as Koli. However, as pointed out by the learned advocate for the petitioners, none of these individuals can find place in the genealogy furnished and relied upon by the petitioners regarding which the Committee did not entertain a doubt. Except one with first name Khandu who is the common ancestor, there is no similarity in the names of the individuals relied upon by the Committee to reach a conclusion that entries were contrary entries and were held back intentionally.

12. In the circumstances, even if the Committee has now expressed its intention to undertake re-scrutiny of the validity granted to the petitioner Shubham's father Madhav Dattatraya Nayane, without expressing anything about its merits, we find that the Committee could have easily granted validity certificates to the petitioners based on the validity of Madhav

Nayane.

13. The writ petition is allowed partly. The impugned order is quashed and set aside. The Committee shall issue tribe validity certificates to the petitioners immediately. The validity certificates would be subject to the decision to be taken by the Committee in the matter of Mahdavi Dattatraya Nayane. The petitioners shall not be entitled to claim equities. The writ petition is disposed of.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

bsb/July 23