

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

WRIT PETITION NO. 9875 OF 2023

1) Aniket Kalyan More,
Age 20 years, Occ. Student
R/o. At post Murtizapur Sawangi,
Tq. Aunda Dist. Hingoli.

2) Rutuja Digambar More,
Age 19 years, Occ. Student,
R/o. At post Murtuzapur Sawangi,
Tq. Aunda Dist. Hingoli

... **Petitioners**

VERSUS

1) The State of Maharashtra
2) The Scheduled Tribe Caste Certificate Scrutiny
Aurangabad, Division Aurangabad

... **Respondents.**

...

Advocate for the Petitioner : Mr. Bayas Anandsingh Sangramsingh
A.G.P. for the Respondents/State : Mr. A.A. Jagatkar

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

DATE : 11.08.2023

PER COURT :

The petitioners are challenging the order passed by the respondent No. 2-scrutiny committee under Section 7(1) of the Maharashtra Act XXIII of 2001 thereby confiscating and cancelling their tribe certificates as 'Koli Mahadev' scheduled tribe.

2. We have heard both the sides in view of the fact that the petitioners are seeking to take admission to the professional courses in the ongoing admission process.

3. We have heard both the sides for a while. It appears that, there are several validity holders in the blood line of the petitioners from the paternal side. Respective fathers of both the petitioners are the validity holders. Even petitioner No. 2's real sister Priti has been granted conditional validity by this Court. In fact, there are eight validity holders in the family to whom the respective committees have granted certificates of validity right from the year 2006 to 2010. This Court has also directed validity certificates to be issued to five individuals from the blood line. If it is not the version in the impugned order questioning the procedure followed when the certificates of validities were issued by the then committees to so many of the petitioners' blood relatives from the paternal side, according to us, following the decision in the matter of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others; 2023 SCC Online SC 326*** even the petitioners deserve to be extended the benefit of having certificates of validity subject to the final outcome of the decision to be taken by the committee in the matters of validity holders which it now intends to reopen because of the circumstances which according to it constitute fraud.

4. The Committee refuses to extend the benefit of these validities as according to it those were obtained by practising fraud. We do not intend to make any comment on the aspect of the powers of the committee to undertake a review and the facts which according to the committee constitute fraud or misrepresentation. We are doing so for two reasons; firstly, the validity holders are not before us and we do not intend to cause any prejudice to them by making observations in this matter behind their back and, secondly, any observation made by us could have a bearing on the matters which the committee has decided to re-open. Till the time, the certificates of validity are not confiscated and cancelled by following due process of law those would hold good and the petitioners would be entitled to have similar certificates.

5. The committee has also observed that in case of a validity holder

Kailas Uttamrao More the composition of the scrutiny committee was not legally proper. One of the three members was not eligible. However, in our considered view, a successor committee cannot question such composition more so when according to rule 9(3) of the Maharashtra Scheduled Tribes (Regulation of Issuance and Verification of) Certificate Rules, 2003, the decision of the committee which comprises of three members can be by majority. In that matter, there was no dispute about the eligibility of the other two members and consequently, this ground will not be sustainable.

6. The committee has relied upon the decision in the matter of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti (supra)*** to observe that the decisions of the then committees granting certificates of validities are not logically correct. In fact, such is not the ratio laid down in the matter of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti*** . It only directs that benefit of previous validities can be extended, by ascertaining as to if the decisions were taken by following due process of law. Sustainability or otherwise of the decision is not the test to be applied. Therefore, this observation of the committee is clearly erroneous.

7. In the light of the above, when according to the learned advocate for the petitioners they are ready to run the risk of facing the consequences as contemplated under **Shweta Balaji Isankar Vs. State of Maharashtra and others (writ Petition No. 5611 of 2018)** we find no reason not to extend the benefit to them of having certificates of validity subject to the condition of the ultimate conclusion in the matters which the committee has decided to reopen.

8. The writ petition is partly allowed.

9. The impugned order passed by the respondent-scrutiny committee is quashed and set aside.

10. The committee shall immediately issue tribe validity certificates to the

petitioners as belonging to 'Koli Mahadev' scheduled tribe, which shall be subject to the final decision to be taken by the committee in the reopened matters.

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

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

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

mkd/-