

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

1049 WRIT PETITION NO.8226 OF 2020

Anjali Laxmanrao Pattewad,
Age 25 years, Occ. Student,
R/o. Hadolati Tq. Ahmedpur,
District Latur

... **Petitioner**

Versus

- 1) The State of Maharashtra
Through its Secretary Tribal
Department, Mantralaya Mumbai-32.
- 2) The Scheduled Tribe Certificate Scrutiny
Committee, Aurangabad,
Through its Deputy Director (R)
- 3) The Principal,
Saraswati Dhanwantri Dental College,
Parbhani Tq. & Dist. Parbhani.
- 4) The Registrar,
Maharashtra University of Health
Science, Vani-Dindori Road, Nashik
Tq. & Dist. Nashik.
- 5) The Scheduled Tribe Certificate Scrutiny
Committee, Kinwat, Headquarter Aurangabad
Through its Deputy Director.

... **Respondents**

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Advocate for the Petitioner : Mr. Pratap V. Jadhavar
A.G.P. for Respondent Nos. 1 and 2 : Mr. A.S. Shinde
Advocate for Respondent No. 3 : Mr. M.C. Dev
Advocate for Respondent No. 4 : Mr. S.S. Patil

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WITH

WRIT PETITION NO. 8234 OF 2020

Mahesh Laxmanrao Pattewad,
Age 27 years, Occ. Student,
R/o. Hadolati Tq. Ahmedpur,
District Latur.

... **Petitioner**

VERSUS

- 1) The State of Maharashtra,
Through its Secretary,
Tribal Department, Mantralaya
Mumbai-32.
- 2) The Scheduled Tribe Certificate Scrutiny
Committee, Aurangabad,
Through its Deputy Director (R)
- 3) The Principal,
Agriculture College, Golegaon,
Tq. Aundha Nagnath, Dist. Hingoli
- 4) The Registrar,
Vasantrao Naik Marathwada Krushi
Vidyapith, Parbhani, Tq. & Dist.
Parbhani.
- 5) The Scheduled Tribe Certificate Scrutiny
Committee, Kinwat, Headquarter Aurangabad
Through its Deputy Director.

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Advocate for the Petitioner : Mr. Pratap V. Jadhavar
A.G.P. for Respondent Nos. 1 and 2 : Mr. A.S. Shinde
Advocate for Respondent Nos. 3 & 4 : Mr. M.M. Navandar

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

DATE : **26.07.2023**

PER COURT :

At the outset, the learned advocate for the petitioners submits that the Scheduled Tribe Scrutiny Committee has now been divided. These matters pertain to the Scheduled Tribe Certificate Scrutiny Committee Kinwat, headquartered at Aurangabad and seeks leave to add it as a party-respondent No. 5 in both these petitions. Leave granted. Amendment to be carried out forthwith.

2. Learned A.G.P waives service for the respondent No. 5 being added.
3. The petitioners who are siblings are challenging the separate orders passed in their respective matters whereby the respondent No. 5-scrutiny committee in an enquiry under Section 7 of the Maharashtra Act XXIII of 2001 has discarded their claim as belonging to 'Koli Mahadev' scheduled tribe and has seized and cancelled their certificates. Though the orders are passed separately in both the matters, those are exactly same.
4. We have heard the learned advocate for the petitioners and the learned A.G.P.
5. The learned advocate for the petitioner submits that there is no dispute about the genealogy. The petitioners' father Laxman was issued with a validity certificate. Even his distant cousin uncle Ramakant Vasant was issued with a validity certificate. There is one more validity of Ranjana Nagnath Pattewad. These validities have been ignored by the committee for no sound grounds. Though the orders have been passed in the year 2017, no show cause notices have been issued to the validity holders. Following the decision in the matter of *Apoorva D/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No. 1 and others; 2010 (6) Mh.L.J. 401*, the petitioners are entitled to derive the benefit of the validation till the time the validity certificate issued to their father Laxman and others are not cancelled.
6. Learned A.G.P. submits that the petitioners and their father have resorted to fraud. A forged record of grand father making it to have been issued by Udgir Court was produced. Pursuant to an order of this Court in the matter of *Kum. Balika Dagdu Patakras Vs. The State of Maharashtra and others in Writ Petition No. 4297/2007* and connected Civil Application by the order dated 19.12.2011 an enquiry was directed to be conducted in respect of a similar document pretended to have been issued by Udgir court.

The enquiry was conducted by the Principal District Judge, Latur who found that there was a clear racket in issuance of the copies with the help of some court staff. The petitioners' father had obtained validity certificate based on such dubious record. He would further submit that Ramakant Vasant was issued validity certificate based on the relations from the maternal side and he is a distant relative.

7. We have carefully considered the rival submissions and perused the papers. In the light of the decision in the matter of *Apoorva D/o Vinay Nichale (supra)* and latest decision in the matter of *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others; 2023 SCC Online SC 326* , if there is no dispute about the blood relation from the paternal side with the validity holders, the successors should get the benefit of such validation.

8. Following the decisions laid down in the matter of *Apoorva D/o Vinay Nichale (supra)* and *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti (supra)* we have been taking consistent view that so long as the validity certificates regarding which the committee expresses doubt about it being legal and valid, so long as such certificates are not cancelled, the blood relations cannot be denied the benefit. Though the impugned order was passed way back in the year 2017, not even show cause notices have been issued to the validity holders.

9. Be that as it may, the committee has discarded Ramakant's validity only on the ground that he is a third cousin. It appears that the committee is completely oblivious of the trite legal position that so long as the validity holder falls in the category of blood relation from the paternal side, the degree of kinship doesn't matter. The committee does not expressly say that he is not related to these petitioners by blood from the paternal side.

10. The reason being given by the learned A.G.P. that Ramakant was

granted validity based on the validities of the maternal side relatives is not the reason given by the committee in the impugned order to discard the validity of Ramakant.

11. It does appear that the petitioners' father had relied upon the record stated to be forged one regarding which the Principal District Judge Latur caused an enquiry and emphatically found that there was a forgery. However, so long as the committee does not decide to initiate the proceeding against the petitioners' father and for that matter even in respect of Ramakant Vasant, the petitioners deserve to be extended the benefit of validity.

12. The Writ Petitions are partly allowed. The impugned orders are quashed and set aside. The respondent No. 5-scrutiny committee shall immediately issue tribe certificates to the petitioners as belonging to 'Koli Mahadev' which shall be subject to the decision to be taken by the committee in the matters of validity holders which it intends to reopen.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

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