

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

WRIT PETITION NO. 10026 OF 2023

UMESH GOVINDRAO MACHKURE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr. Sunil Mahadevappa Vibhute
AGP for Respondents : Mr. S.G. Sangale
...

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

DATE : 20 SEPTEMBER 2023

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

1. Heard learned counsel for both the sides finally at the admission stage.
2. The petitioner is challenging judgment and order 10.06.2021, passed by the Scrutiny Committee invalidating tribe certificate of the petitioner and confiscating the same. He seeks to rely upon validity certificate issued to his sister, Vijaya. After following due procedure of law, Vijaya was issued with the validity certificate which should not have been discarded by the Scrutiny Committee, is the focal submission of the petitioner.
3. Learned AGP would oppose the caste claim of the petitioner. According to him, the Scrutiny committee has rightly rejected the caste claim considering the contrary entries of Shivaji Gyanoba Machkure and manipulation in the school record of Govind Gyanoba Machkure. He

would submit that the validity certificate of Varsha Machkure and Vijaya Machkure are not reliable. The Scrutiny Committee has arrived at a plausible conclusion which needs no interference.

4. The learned counsel for the petitioner has invited our attention to the judgment and order dated 27.11.2020 passed in the case of his sister Vijaya, invalidating the tribe certificate. Being aggrieved, Vijaya had filed Writ Petition No. 9137 of 2020. By order dated 04.01.2021, passed in her matter, the petition was allowed and the Committee was directed to issue validity certificate. The reliance is placed upon the validity certificate of another sister of the petitioner Varsha.

5. We have gone through the text of the order which is on page no. 62. We also respectfully concur with the view and propose to follow the same course.

6. The petitioner's caste claim is based upon the validity certificates of his sisters Vijaya and Varsha. Unless sisters' validity certificates are revoked, he cannot be denied the caste benefit. It is settled legal position that on the self same record the Scrutiny Committee cannot take contrary view.

7. We find that both the validity certificates are issued after following due procedure of law. We find that there is vigilance enquiry in the matter of Vijaya as well as Varsha. The relevant record was

considered. The same record was before the Scrutiny Committee. The Scrutiny Committee committed error of jurisdiction in rejecting the caste claim.

8. We find that the Scrutiny Committee committed perversity in discarding the validity certificates of Varsha and Vijaya. The impugned judgment and order is unsustainable. We, therefore, pass following order :

ORDER

- i. The Writ Petition is partly allowed.
- ii. The impugned order is quashed and set aside. The respondent – scrutiny committee shall immediately issue certificate of validity to the petitioner of ‘Koli Mahadev’ scheduled tribe. It shall be subject to the final outcome of the matters which the committee has decided to reopen.
- iii. The petitioner shall not be entitled to claim any equities.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]