

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

WRIT PETITION NO.9598 OF 2023

1. Rohan s/o Radhakishan More
2. Shubhangi d/o Radhakishan More ... **PETITIONER**

VERSUS

1. The State of Maharashtra
through its Secretary,
Tribal Development Department
Mantralaya, Mumbai-32.
2. The Scheduled Tribe Certificate
Verification Committee, Aurangabad,
through its Member Secretary ... **RESPONDENTS**

...

Advocate for Petitioner : Mr. Boinwad Omgashad B.
A.G.P. for respondent /State : Mr. S.G. Sangale

...

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

DATE : 10.10.2023

PER COURT :

Heard.

2. The petitioners are challenging the order of invalidation passed by the respondent – Scrutiny Committee in a proceeding under Section 7 of Maharashtra Act XXIII of 2001.

3. We have heard both the sides finally at the stage of admission in view of the exigency, inasmuch as one of the petitioners is in urgent need of the decision since he seeking admission in the current centralized admission process.

4. The learned advocate for the petitioners submits that the petitioners' father is a validity holder and till the time his certificate of validity is not confiscated and cancelled by following due process of law, the petitioners cannot be denied benefit of deriving the advantage. He would also point out that two of their distant cousins also possess certificate of validity namely Kailas Bappasaheb More and Vilas Bappasaheb More. He would submit that a vigilance was conducted at the time when petitioners' father was seeking validation of his tribe certificate of Koli Mahadev (29). The favourable entries have been conveniently ignored by the committee and only few contrary entries have been relied upon to discard the claim. The decision is perverse and arbitrary. The reasons assigned for not giving the benefit of father's validity are not compatible with the decision in the matter of **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and Ors.; 2023 SCC Online SC 326**. The order be set aside and the claim of the petitioners be approved of.

5. Learned AGP submits that the contrary entries of 'Koli' in respect of first degree paternal uncle, paternal aunt and even the petitioners' father have been pointed out by the Committee to discard the claim. It is also pointed out that in respect of paternal uncle Bappasaheb Yamaji More even there was manipulation in the school record duly certified by the Headmaster. All the favourable entries were of later point of time. The genealogy given by one of the validity holders Vilas which was being relied upon by the petitioners' father and the genealogy given by the petitioners is

not compatible which is another reason assigned by the Committee. Even the validity was granted to the petitioners' father by Committee headed by one Mr. V.S. Patil whose functioning was castigated even by the Government. He would submit that even the petitioners' father during the vigilance inquiry in his case conveniently stated that none of his siblings were taking education or were rather illiterate, in all probability to hide the school record of these individuals which was *ex facie* contrary, wherein, all of them were shown to be Koli. He would submit that the 'Koli' falls under special backward class whereas 'Koli Mahadev' is a tribe.

6. Having considered rival submissions and having perused the record we are emboldened to state that the observation and the conclusion of the Committee is based on the plausible appreciation of the material available before it. This Court cannot sit in appeal while exercising the jurisdiction under Article 226 of the Constitution of India.

7. The petitioners' father, in his own validation proceeding conveniently stated that his siblings were illiterate. However, a genealogy prepared under his signature based on which in the vigilance inquiry in the current matter, the school record of each of his siblings namely Appassaheb, Shashikala, Radhakisan, Latabai and even Bappasaheb could be traced. These are for the period between 1964 to 1978. In all of them, including the school record of petitioners' father, the school record expressly described them to be belonging to 'Koli' and not 'Koli Mahadev'. Even the School record of Bappasaheb expressly mentioned that though the original entry

was Koli, it is prefixed with letter 'म' (Ma) in a different handwriting and ink. Pertinently, in response to the vigilance report the petitioners have not expressly denied any blood relationship with these individuals. Rather the genealogy prepared in petitioners' father's validation proceeding under his signature apparently demonstrates Appasaheb, Bappasaheb and Latabai to be his siblings. In the genealogy furnished by the petitioner Shubhangi under the signature of her father one additional paternal aunt by name Shashikala has been shown and even her school record were found mentioning her caste as 'Koli'.

8. Again, there is an express observation of the committee, wherein, it has specifically mentioned that petitioners' father Radhakisan has given a genealogy to derive the benefit of one Vilas Bappasaheb More stated to be the distant cousin, however, that genealogy did not match with the genealogy given by Vilas in his own file. The petitioners could not objectively demonstrate that the observation is factually incorrect.

9. Though there are several favourable entries in the school record as indicated in the impugned order and relied upon by the petitioners, however, all those entries are of subsequent period latter to the contrary school record of petitioners' father, paternal uncles and paternal aunts referred to herein above. The oldest entries will carry the greater probative value as is the law laid down in the matter of **Anand Vs. Committee for Scrutiny and Verification of Tribe Claims and Ors.; (2012) 1 SCC 113.**

10. Once having noticed all the aforementioned facts and

circumstances, in our considered view, it cannot be said that petitioners' father Radhakishan was granted certificate of validity by following due process merely because some procedure was adopted. We are also concerned with the fact that the petitioners' father had taken convenient stand in all probability because of the contrary school record of not only himself but even of his siblings which are for the older period, between 1964 to 1978. This apart, even manipulation was noticed in respect of Bappasaheb Yamaji More's school record.

11. If these were the circumstances before the Committee, its decision not to extend the benefit of father's validity to the petitioners cannot be said to be arbitrary or based on incorrect appreciation of the evidence.

12. The writ petition is dismissed.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)