

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

WRIT PETITION NO. 913 OF 2023

**DURGESHKUMAR JAIRAM GUNGWAD
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

....
Advocate for Petitioners : Mr. Mahesh S. Deshmukh
i/b. Mr. S.C. Yeramwar
A.G.P. for Respondents : Mr. A.A. Jagatkar
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**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATED : 31 July, 2023

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

1. Heard both the sides for final disposal. Considering the urgency mentioned by the learned counsel for the petitioner, this matter is taken up for final adjudication.

2. The petitioner is challenging judgment and order dated 04.08.2022, invalidating caste claim of the petitioner for 'Koli Mahadev' scheduled tribe. His grievance is that in spite of having seven validity certificates from his paternal side close relatives, he is being denied the validity certificate. In support of his claim, a genealogy is placed on record which is at page no. 32. During the course of hearing the reasoned orders passed by the Scrutiny

Committee validating the certificates of Chandrakant Govindrao Gungewad, Balaji Narsingrao Gungewad are placed on record. The extract of vigilance report in case of Balaji Narsing Gungewad and show cause notice dated 05.08.2022, are placed on record by learned counsel for the petitioner.

3. Learned AGP is supporting impugned judgment and order. According to him, the Scrutiny Committee rightly discarded the validity certificate because the genealogy is doubtful. There is suppression of order of invalidity passed in case of Sangita. The validity certificates were obtained suppressing material facts. It is further informed that the Scrutiny Committee has issued show cause notice to the validity holders.

4. The genealogy is placed on record at page no. 32. It is pointed out that there are seven validity holders in the family of the petitioner, namely Balaji, Gajanan, Chandrakant, Sujata, Suryakant, Kishan and Jairam. Pertinent to note that Jairam is the father of the petitioner. The reasoned orders passed in case of Chandrakant and Balaji are also placed on record. It is seen from those orders that they were issued with validity certificates on the basis of number of documentary evidence on record. Therefore, submission of learned

AGP that the order of invalidation passed in case of Sangita D/o. Narsing Gungewad, was suppressed sans merit. The suppression of the invalidity of the close relative does not act as a *res judicata*. Every matter of the claimant has to be adjudicated on the basis of material on record and it is an individual centric enquiry.

5. It is matter of record that after following due procedure of law, validity certificates were issued to Chandrakant and Balaji. The contrary entries and the relevant material was taken into account by the Scrutiny Committee. It would not be out of place to mention that contrary entries which are at page no. 86 bearing admission number 2225 and 2224 were considered in the matter of Balaji and, thereafter, the validity was issued. Similarly, order of invalidation in case of Sangita was placed before the Committee in matter of Balaji. Therefore, we are of the view that validity certificates of Balaji and Chandrakant are reliable.

6. Learned counsel for the petitioner would submit that the contrary entries in respect of the alleged manipulation of the school record of petitioner's father and aunt is already explained by the petitioner in reply which is at page no. 75. The documents from page nos. 106 to 109 are shown to us. In case of petitioner in the application

for admission was filed, the caste was mentioned as 'Koli Mahadev'. However, in the school record it was mentioned as 'Mahadev Koli'. The procedure was followed under Rule 26.4 of the Secondary School Code and obvious mistake was corrected. Similar is their explanation in case of admission entry no. 2286 in case of petitioner's father and petitioner's aunt. The necessary orders passed by the competent authorities for corrections are on page no. 108 and 109. We find that this explanation is satisfactory to dispel the allegations of manipulation in the school record.

7. The submissions of the learned AGP that genealogy in the matter of Chandrakant is suspicious, the validity holders suppressed material facts cannot be gone into. We are not excising appellate jurisdiction. In the absence of the validity holders before us, we cannot pass any adverse comment nor can we direct to revoke the validity certificates. The Scrutiny Committee has already issued show cause notices. Therefore, it would be in the fitness of the things to grant conditional validity to the petitioner.

8. We hold that impugned judgment and order is discriminatory and liable to be quashed and set aside. We, therefore, pass following order :

- i. The impugned judgment and order dated 04.08.2022, is quashed and set aside.
- ii. The Scrutiny Committee shall issue caste validity certificate in favour of the petitioner for 'Koli Mahadev' scheduled tribe within a period of two weeks from today on following conditions :
 - a. That the validity certificate shall be subject to the result of re-verification of the validity certificates undertaken by the Scrutiny Committee.
 - b. That the petitioner shall not claim any equity.
- iii. Writ Petition is disposed of in above terms.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)