

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9736 OF 2023

1. Divya d/o Jigaji Budruke
2. Vishwajeet s/o Jaychand Budruke ...Petitioners

Versus

- 1) The State of Maharashtra
Tribal Development Department, Mumbai.
- 2) The Scheduled Tribe Caste Certificate
Verification Committee, Kinwat,
Through its Member Secretary,
Aurangabad. ...Respondents

...

Advocate for Petitioners : Mr. Vivek U. Jadhav
AGP for Respondents/State : Mr. A.S. Shinde

...

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

DATE : 07 AUGUST 2023

ORDER [SHAILESH P. BRAHME J.] :

. Heard both the sides. With the consent of the parties, the matter is taken up for final hearing at the admission stage.

2. The petitioners are challenging the judgment and order dated 28.07.2023 passed by the respondent no.2/Scrutiny Committee, invalidating their tribe claim of 'Koli Mahadev scheduled tribe'. Despite of the validity certificate of father of the petitioner

no.2, the Scrutiny Committee denied the validity certificates. Additionally, it is contended by the petitioners that there is old record showing tribe as Koli Mahadev.

3. The learned AGP opposes the claim. According to him, the Scrutiny Committee has rightly considered the contrary entries and rejected the claim. The validity certificate was not reliable. The affinity test was also recorded against the petitioners. There is no good ground to interfere with the impugned judgment and order.

4. The learned AGP has placed on record the original file of validity holder Jigaji Rambhau Budruke. The petitioner no.1 Divya is the daughter of validity holder. The petitioner no.2 is cousin of the petitioner no.1. The genealogy of the family of the petitioners is produced on record which is not challenged by the respondents.

5. The learned Advocate of the petitioners has drawn our attention to the old entries showing caste as Mahadev Koli. Those old entries are of Rambhau Jigaji Budruke, Phulchand Rambhau Budruke. Those entries were considered before granting validity certificate to Jigaji. There is a vigilance report in the matter of Jigaji, which discloses the consideration of old record. From the original file, we have verified that a reasoned order was passed in the matter of Jigaji.

We find that due procedure was followed before granting validity certificate to Jigaji. In view of law laid down by the Supreme Court in the matter of Maharashtra Adavasi Thakur Jamat Swarakshak Samiti vs. State of Maharashtra & others reported in 2023(2) Mh.L.J.785, the validity certificate is reliable. The petitioners are entitled to valid certificate.

6. We also find that the old record which was also considered while granting validity to Jigaji corroborates the claim of the petitioners. The Scrutiny Committee committed patent illegality in discarding the old record. The finding recorded by the Scrutiny Committee considering entries of few persons disclosing caste Koli and invalidating the claim of petitioners is perverse and unsustainable.

7. The Scrutiny committee has decided to reopen the matter of validity holder. Unless and until the validity certificate of Jigaji is revoked, petitioners cannot be denied the equal social status. In that view of the matter, the impugned judgment and order is liable to be quashed. We, therefore, pass following order.

O R D E R

[i] The Writ Petition is partly allowed.

[ii] The impugned judgment and order dated 28.07.2023 passed by the respondent no.2/Scrutiny Committee, is quashed and set aside.

[iii] The Scrutiny Committee shall immediately issue tribe validity certificate of 'Koli Mahadev' scheduled tribe to the petitioners, which shall be subject to the outcome of the re-verification proposed by the Scrutiny Committee.

[iv] The petitioners shall not be entitled to claim equities.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]