

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

Writ Petition No. 11338 of 2021

Prajwal s/o Dnyaneshwar Koli

Age : 21 years, Occu.: Education,

R/o Rajuri, Taluka and District Osmanabad.

...Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary
Tribal Development Department,
Mantralaya, Mumbai.
2. The Scheduled Tribe Certificate
Scrutiny Committee, Aurangabad Division,
Near St. Lawrence High School,
Town Centre, CIDCO, Aurangabad
through its Assistant Commissioner/
Vice President.

...Respondents

Mr. Ajeet B. Kale, Advocate for the Petitioner.

Mr. S.B. Yawalkar, AGP for Respondents/State.

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

DATE : 13 OCTOBER 2023.

FINAL ORDER [SHAILESH P. BRAHME, J.] :

1. Heard both the sides finally at the admission stage.

2. The petitioner is assailing the judgment and order dated 22.03.2021 passed by the respondent no.2/Scrutiny Committee, invalidating his tribe certificate of 'Koli Mahadev' scheduled tribe and confiscating the same. According to the petitioner, the Scrutiny

Committee has committed perversity in discarding old record of Nagnath Bhimrao Koli which has greater probative value and there is no adverse remarks for the same. Besides that the validity certificate of the cousin of the petitioner is also discarded without any valid reason. The petitioner therefore, prays for validity certificate conditionally.

3. Per contra, learned AGP supports impugned judgment and order. According to him, the Scrutiny Committee is justified in rejecting the caste claim of the petitioner when the record of the close relative of the petitioner namely Janabai, Tai, Haijerao was found to be interpolated. The Committee has rightly appreciated the record of the relatives of the petitioner indicating contrary entries. The school record of Nagnath Bhimrao Koli which is sought to be relied, is doubtful. The validity certificate of Vijaykumar is found to be unreliable. He therefore, prays to dismiss the petition.

4. We have considered the submissions of both the sides carefully. The petitioner is relying upon the validity certificate issued to his cousin Vijaykumar Babasahed Koli. The genealogy is at page no.52 which is not disputed. There was a vigilance enquiry in case of Vijaykumar and report to that effect is placed on record. Page No.58 is the list of the documents which were verified by the Committee. The school record of Nagnath Bhimrao Koli indicating caste Mahadev Koli has also been verified. The report further shows that there is no adverse remarks for the school entry of Nagnath. Vijaykumar was issued with validity certificate by the Committee by speaking order. For which there is no dispute by the respondents. We find that the

validity certificate of Vijaykumar was issued by following due procedure of law and it is reliable. 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 of Vijaykumar should enure to the benefit of the petitioner.

5. The petitioner is relying upon the school record of his grandfather Nagnath Bhimrao Koli. At page No.40, the document is placed on record indicating caste as Hindu Mahadev Koli. As stated earlier this document is already verified by the Scrutiny Committee while issuing validity certificate to Vijaykumar Babasahed Koli. In the present matter also, the vigilance enquiry was conducted in respect of the said document. There is no adverse remarks for the same. The document has a probative value. The Committee should not have discarded this document. We find that the petitioner has made out a case for issuing validity certificate on certain conditions.

6. The Committee has entertained a doubt regarding the genuineness of school record of Nagnath Bhimrao Koli which is of 01.11.1950. The document was referred to the opinion of handwriting expert. It was returned with a report dated 05.03.2021 showing inability to express any opinion about the genuineness of handwriting. The expert opinion is inconclusive. Under these circumstances, it cannot be concluded that the document is not genuine. The finding for castigating the said document is unsustainable and needs to be quashed and set aside.

7. The learned AGP has informed that the Committee has proposed re-verification of validity certificate of Vijaykumar. Unless the validity certificate of Vijaykumar is recalled, the petitioner cannot be denied the benefits of same social status. Under these facts and circumstances, we find that impugned judgment and order is unsustainable.

8. We propose to dispose of this writ petition by following order.

ORDER

- (i) The writ petition is partly allowed.
- (ii) The impugned judgment and order dated 22.03.2021 is quashed and set aside.
- (iii) The Committee shall immediately issue tribe validity certificate of 'Koli Mahadev' scheduled tribe, to the petitioner which shall be subject to the outcome of re-verification intended by the Committee.
- (iv) The petitioner shall not be entitled to claim equities.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]