

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

WRIT PETITION NO. 10152 OF 2023

1. VAISHNAVI D/O. GANESH PHASKALWAD
2. SHUBHANGI D/O. MADHAVRAO PHASKALWAD
3. SANDESH S/O. MADHAVRAO PHASKALWAD

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Petitioners : Mr. O.B. Boinwad
AGP for Respondents : Mr. S.B. Yawalkar
...

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

DATE : 12 SEPTEMBER 2023

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

1. Heard both the sides finally.
2. The petitioners are related *inter se*. Their tribe certificate of 'Koli Mahadev' was scrutinized by the respondent no. 2 – Committee. By order dated 08.08.2023, the Committee invalidated tribe certificates and confiscated them. Being aggrieved, present petition is filed.
3. It is submitted that in view of validity certificates of fathers of the petitioners, it was not permissible to reject the caste claim. The old Fasli record has also been pressed into service.
4. Learned AGP would support the impugned judgment and order. He submits that there was contrary record of Dashrath, Shivraj,

Maroti and Suryabhan to indicate caste as 'Koli' which is non tribble. The school record of Balaji, Ganesh, Indutai and Rajeshwar, were found to be interpolated. The old school record of Rama Irba upon which great reliance is placed is found to be tampered. He would submit that the validity certificate of Ganesh, Maroti and Madhav are rightly discarded by the Scrutiny Committee.

5. Learned AGP has placed on record the original papers of the petitioners, and the validity holders. It is informed that the Scrutiny Committee has proposed re-verification. It is urged to dismiss the petition.

6. We have considered the submissions of the parties and perused the original papers. The genealogy which is at page no. 70 indicates that, Ganesh, father of petitioner no. 1 Vaishnavi, is validity holder and, Madhav, father of petitioner no. 2 Shubhangi and petitioner no. 3 Sandesh, is also validity holder. Maruti Chandoba also holds validity. There was vigilance enquiry conducted in case of Maruti. The old document in Urdu i.e. House Deed of 1352 Fasli (1943 A.D.) is relied upon. The caste of Chandoba who is father of Maruti, was shown to be 'Koli Mahadev'. The said document was duly verified with the assistance of translated copy which was part of the record. We find that validity certificate of Maruti is reliable. It should enure to the benefit of the petitioners.

7. Learned AGP has shown us the contrary entries and manipulation of the school record of various relatives of the petitioners. We are not impressed by the submissions. The self same record was considered in the vigilance enquiries and thereafter, the Scrutiny Committees issued validity certificates. Unless, the validity certificates are revoked, the petitioners cannot be deprived of the equal social status.

8. We have come across the Urdu document of transfer certificate of Rama Irba indicating caste as 'Koli Mahadev'. It is of 1330 Fasli (1921 A.D.). A translated copy along with the affidavit of translator has been placed on record. We find that the school record of Rama Irba, House Deed of Chandoba have greater probative value and they are not dealt with by the Scrutiny Committee in the impugned judgment.

9. We find that the impugned judgment is arbitrary and perverse. The petitioners are entitled to validity certificates conditionally. We, therefore, pass following order :

ORDER

- i. The Writ Petition is partly allowed.
- ii. The impugned judgment and order dated 08.08.2023, passed by the Scrutiny Committee, is quashed and set aside.
- iii. The Committee shall immediately issue tribe validity certificates to the petitioners as belonging to 'Koli Mahadev' scheduled tribe, which shall be subject to the decision to be

taken by the Committee in the matters which it intends to reopen in respect of the validity holders.

iv. The certificates of validity shall be issued in the prescribed format without incorporating other conditions /additions.

v. The petitioners shall not be entitled to claim equities.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

spc/