

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

WRIT PETITION NO. 10138 OF 2023

1. SARIKA DEVIDAS BHUTTAPALLE
2. VIRBHADRA DEVIDAS BHUTTAPALLE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr. C.R. Thorat
AGP for Respondents : Mr. S.G. Sangale
...

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

DATE : 27 SEPTEMBER 2023

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

1. Heard both the sides finally with their consent.
2. The petitioners are challenging the judgment and order dated 02.08.2023 passed by the Scrutiny Committee, invalidating their tribe claim of 'Koli Mahadev' scheduled tribe and confiscating the same. The petitioners seek to rely upon validity certificate of their father Devidas and cousin uncles Madhav, Datta and Gopal as well as Valmik son of Shivaji. Learned counsel would submit that the contrary entries referred by the Scrutiny Committee are of the persons not related to the petitioners and the census record indicating caste as 'Koli' is inadmissible.
3. Learned AGP would support impugned judgment and order. He has placed on record the original papers of petitioner to show that the

genealogy proposed by the petitioners is inconsistent with the genealogy prepared by the vigilance enquiry. The coloured photocopies are shown to indicate manipulation of school record. He would submit that the Scrutiny Committee rightly rejected the tribe claim considering manipulation and contrary entries.

4. Learned AGP submits that Committee is justified in discarding validity certificates which are based upon misleading information and suppression of material facts. He would further submit that the old record of Kamalbai, Ramchandra and Shanta is incompatible with the tribe claim of the petitioners.

5. We have considered the submissions of respective counsels. The petitioners are relying upon validity certificates of father, Madhav, Datta, Gopal and Valmik. Father of the petitioners issued with validity certificate, by speaking order. Similar is the case with validity certificate of Valmik. We find that the self same record was verified through vigilance enquiry. The validity certificates are issued by following due procedure of law. They support the claim of the petitioners.

6. The validity certificates are issued despite of contrary entries. Unless the validity certificates are revoked, the petitioners cannot be deprived of the same social status. Therefore, vehement submissions of learned AGP on contrary entries is of no avail.

7. The census record is not admissible as per Section 15 of Census Act, 1951. Therefore, caste Koli recorded in the census record is inconsequential. We find that the Committee has committed error of jurisdiction in rejecting the tribe claim. We, therefore, pass following order :

ORDER

- i. The Writ Petition is partly allowed.
- ii. The impugned order dated 02.08.2023 is quashed and set aside.
- iii. The respondent no. 2 – Scrutiny Committee shall issue tribe certificates to the petitioners of ‘Koli Mahadev’ scheduled tribe, forthwith.
- iv. The validity certificates shall be subject to outcome of the re-verification of the validity certificates of the relatives of the petitioners.
- v. The certificate of validity shall be issued in prescribed format without incorporating any conditions/additions.
- vi. The petitioner shall not be entitled to claim any equities.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]