

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10650 OF 2023

Rushada Devanand Mekale

...Petitioner

VERSUS

1] The State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai – 32.

2] The Scheduled Tribe Certificate Scrutiny
Committee, Kinwat Division, Aurangabad
Through its Member Secretary

3] Sub-Divisional Officer, Latur

...Respondents

...

Advocate for Petitioner : Mr. A.S. Golegaonkar h/f Mr. Madhur A.Golegaonkar
AGP for Respondents/State : Mr. S.G. Sangale

...

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

DATE : 28 AUGUST 2023

ORDER (MANGESH S. PATIL, J.) :

Since the petitioner is in urgent need of decision to secure her admission to professional course in the current admission process through NEET-UG-2023, the matter is taken up finally at the stage of admission.

2. Admittedly, the petitioner's father Devanand, her real sister Rutuja are holding the certificates of validity of Koli Mahadev scheduled tribe. The learned advocate Mr. Golegaonkar, therefore, submits that

even petitioner deserves to be granted such certificate of validity and she is ready to run the risk of facing the consequences contemplated in the matter of ***Shweta Balaji Isankar Vs. State of Maharashtra and others (writ petition no. 6320 of 2017)***.

3. The learned AGP submits that the certificate of validity was issued to Devanand relying upon the validities of couple of individuals who were not related to him by blood from the paternal side. He would submit that that certificate was obtained by concealing contrary record and the committee has inherent powers to undertake a fresh scrutiny.

4. We do not intend to make any comment on the aspect of the powers of the committee to undertake a review and the facts which according to the committee constitute fraud or misrepresentation. We are doing so for two reasons; firstly the validity holders are not before us and we do not intend to cause any prejudice to them by making observations in this matter behind their back and secondly, any observation made by us could have a bearing on the matters which the committee has decided to re-open.

5. When admittedly, the petitioner's father and sister are possessing the certificates of validity, in our considered view, she cannot be deprived of having the benefit. Pertinently, Rutuja was granted certificate of validity pursuant to the order of this Court in writ

petition no. 9048 of 2014 by order dated 14-01-2021. We follow the same course for the selfsame reasons.

6. In the result, the following order :-

(i) The writ petition is partly allowed.

(ii) The impugned order dated 18.08.2023 passed by the respondent no.2/Scrutiny Committee is quashed and set aside. The Scrutiny Committee shall immediately issue tribe validity certificate to the petitioner as belonging to 'Koli Mahadev' scheduled tribe.

(iii) It shall be subject to the decision/outcome in the matters to be reopened by the Committee of the validity holders.

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

(v) Considering the fact that tomorrow is the last date for submitting certificate of validity and since the matter is being heard and decided urgently, we request the learned AGP to communicate this order to the Committee immediately, since the law officer of the Committee is present in this Court.

(vi) The petitioner shall not be entitled to claim equities.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/