

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

Writ Petition No. 10800 / 2023

Omkar s/o Ram Kalge

...Petitioner

Versus

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

2. The Scheduled Tribe Caste Certificate
Verification Committee, Kinwat
Head Quarter at Aurangabad,
through its Dy. Director (R),
Dist. Aurangabad.

...Respondents

Mr. Sunil M. Vibhute, Advocate for the Petitioner.

Mr. S. G. Sangale, AGP for respondents/State.

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

DATE : 21 SEPTEMBER 2023.

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

. Heard both the sides finally.

1. Being aggrieved by the judgment and order dated 23.08.2023 passed by the Scrutiny Committee invalidating the tribe certificate of the petitioner and confiscating the same, the present petition is filed. The learned Advocate for the petitioner seeks to rely upon the validity certificate of father and real uncle as well as old revenue record of great grandfather Naga and great great grandfather Sudhana. He

would submit that the Committee should have given benefit of the validity certificates to the petitioner on the ground of parity.

2. The learned AGP would oppose the caste claim of the petitioner. He has defended impugned judgment by pointing that during vigilance enquiry constant contrary record is noticed indicating caste as Koli which is non-tribal. It is further pointed out that the school record of Madhav and Venkat was found to be tampered. The same is the position with revenue record of Naga, great grandfather of the petitioner.

3. We have considered the rival submissions of the parties. It is also disclosed to us that the Scrutiny Committee has issued show cause notices to the validity holders for the re-verification. The original papers of the petitioner is placed on record by the learned AGP.

4. The learned Advocate for the petitioner has vehemently submitted that the validity certificates of father and uncle of the petitioner would enure to the benefit to the petitioner. In case of father of the petitioner, vigilance enquiry was conducted. By order dated 23.03.2007, the Scrutiny Committee rejected his caste claim. Being aggrieved, he had preferred writ petition no.2444/2007 which was disposed of, by order of remand. Thereafter father was issued with validity certificate. The validity certificate is issued after following due procedure of law and it is safe to rely upon the same.

5. Unless the validity certificate of father of the petitioner is revoked, the petitioner cannot be denied the same social benefit. The findings of the Committee that despite contrary entries and manipulation of the record, the petitioner's father was issued with validity certificate and therefore it is unreliable, is in our considered view unsustainable. The same is the case with validity certificate of another validity holder, Dnyaneshwar.

6. The learned Counsel for the petitioner has invited our attention to the revenue record of Naga Govinda, great grandfather of the petitioner indicating caste as Koli Mahadev. With the assistance of the learned AGP, we have gone through the papers and especially old record of Naga Govinda. It is a record of 1354 fasli (1944 A.D.). We do not concur with the view expressed by the Committee for castigating the old entry. It corroborates the claim of the petitioner. However, the Committee is at liberty to re-verify the record to find out any element of fraud. But at this juncture, we have to accept the document.

7. The impugned judgment and order is unsustainable. We, therefore, propose to pass the following order.

ORDER

- (i) The writ petition is allowed partly.
- (ii) The judgment and order dated 23.08.2023 passed by the Scrutiny Committee is quashed and set aside.

(iii) The Scrutiny Committee shall issue tribe validity certificate of Koli Mahadev scheduled tribe to the petitioner forthwith which shall be subject to the outcome of the re-verification undertaken by the Scrutiny Committee.

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

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]