

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

WRIT PETITION NO. 10855 OF 2023

Shubham S/o Digambar Mekhale,
Age : 22 years, Occu. : Student,
R/o Hirapur, Tq. Georai,
Dist. Beed.

.. Petitioner

Versus

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

2. The Scheduled Tribe Certificate
Scrutiny Committee, at Aurangabad
through its Member Secretary.

.. Respondents

Shri Vivek U. Jadhav, Advocate for the Petitioner.

Shri A. S. Shinde, A.G.P. for the Respondent Nos. 1 and 2.

**CORAM : MANGESH S. PATIL AND
SHAILESH P. BRAHME, JJ.
DATE : 31 AUGUST 2023.**

FINAL ORDER (Per Shailesh P. Brahme, J.) :-

. Heard both the sides finally at the admission stage considering the urgency expressed by the petitioner.

2. Being aggrieved by the judgment and order dated 24.08.2023 passed by the respondent No. 2/Scrutiny Committee invalidating his tribe claim as belonging to 'Koli Mahadev' (Scheduled Tribe) the present writ petition is filed.

3. The reliance is placed by the petitioner on the validity certificate issued to his father, which according to the petitioner is issued after following the due procedure of law.

4. The learned Assistant Government Pleader supports the impugned judgment and order. The Scrutiny Committee is justified in rejecting the caste claim because old entries of Muktaram, Kacharabai, Vimal, Suman, Dattu and Vitthal disclose that the caste of the petitioner is not scheduled tribe Koli Mahadev. The manipulation of the school record was also noticed in the matter of Baban, Mhasu and Parmeshwar. The validity certificate was issued to the father of the petitioner by misrepresentation and suppressing contrary entries and the manipulation. Therefore, the committee has taken decision to conduct reverification of the validity certificate of the father of the petitioner.

5. The learned A. G. P. has produced the original file of father of the petitioner Digambar Ganpat Mekhale. It appears from record that there was vigilance enquiry conducted in case of his father. A report to that effect was prepared and produced on record at page No. 71 of the petition. The report reveals that the school entries of the relatives were verified during the vigilance enquiry. Clinchingly, the old record of 1356 Fasli (1947 A.D) of Laxman Gangaram Mekhale was verified. The father was held to be belonging to Mahadev Koli. By reasoned order which is apparent from the original papers was passed issuing validity

certificate to the father of the petitioner. We are of the considered view that validity certificate was issued after due procedure of law. It should enure to the benefit of the petitioner.

6. When self same record was already scrutinized by the committee, there was no point in entertaining the same objections regarding the material produced on record to invalidate the claim of the petitioner. In that view of the matter, we hold that the scrutiny committed jurisdictional error. The petitioner is entitled to validity certificate conditionally.

7. The submissions of the learned A. G. P. regarding contrary record and tampering can be gone into during the course of reverification. The committee intends to reopen the matter of the father of the petitioner. Unless his validity certificate is revoked, the petitioner cannot be denied same social status. Therefore, we hold that the impugned judgment and order is unsustainable.

8. For the reasons recorded above, we pass following order.

O R D E R

A. The writ petition is partly allowed. The impugned order is quashed and set aside. The respondent - committee shall immediately issue tribe validity certificate to the petitioner as belonging to 'Koli Mahadev' scheduled tribe in the prescribed format without adding anything. The validity shall be subject to the final outcome of the matters which the committee has

decided to re-open.

B. 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.

C. The petitioner shall not be entitled to claim equities..

[SHAILESH P. BRAHME, J.] [MANGESH S. PATIL, J.]

bsb/Aug. 23