

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10758 OF 2023

1) Omkar Vishwamber Mane

2) Bhimashankar Annasaheb Mane

.. Petitioners

Versus

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

2) The Scheduled Tribe Certificate Scrutiny
Committee, Aurangabad
Through its Deputy Director (R)

.. Respondents

...
Advocate for Petitioners : Mr. Jadhavar Pratap V.
AGP for Respondents/State : Mr. S. G. Sangale
...

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

DATE : 29 AUGUST 2023

ORDER (MANGESH S. PATIL, J.) :

The petitioners are challenging the order passed by the respondent scrutiny committee confiscating and cancelling their certificates of Koli Mahadev scheduled tribe.

2. Considering the urgency inasmuch as the petitioner no. 2 intends to secure his admission in the ongoing NEET-UG-2023 process, we have taken up the matter for final disposal at the admission stage with the consent of the parties.

3. The learned advocate for the petitioners submits that there is no dispute about the genealogy. Petitioner Omkar's father Vishwamber holds a certificate of validity. Vigilance was conducted at the time of Vishwamber's proposal and after following due process, the committee had granted certificate of validity. Apart from that Omkar's real brother Vishal and second degree cousin of petitioner Bhimashankar by name Abhishek Shivnarayan have been granted certificates of validity pursuant to the order of this Court in writ petition no. 1355 of 2022. Besides two second degree cousin uncles of petitioner - Bhimashankar by name Shivnarayan Ramrao and Prashant Ramrao are also validity holders and the petitioners are entitled to have at least a conditional validity, even if the committee now intends to undertake some reconsideration of the validity holder's claims.

4. The learned AGP submits that the validity certificates were obtained by the afore-mentioned persons by resorting to suppression of contrary record. The vigilance enquiry reveals that the petitioners' forefathers were having the school record wherein they were described as Maratha or Koli. The committee has therefore decided to re-open those validities.

5. The learned AGP would also submit that the petitioner Omkar's father Vishwamber had obtained certificate of validity based

on the validity certificate of one Vivekanand Shankarrao Tubkale who was not related to Vishwamber by blood from the paternal side. He would then submit that Prashant Ramrao and Shivnarayan Ramrao have obtained certificates of validity issued by the committee headed by one Mr. V.S. Patil.

6. We have considered the rival submissions and perused the papers.

7. There is no dispute about the genealogy particularly in respect of the petitioners being the blood relations of the aforementioned validity holders from paternal side. Two of them Vishal Vishwamber and Abhishek Shivnarayan have been granted certificates of validity pursuant to the order of this Court in writ petition no. 1355 of 2022 which are issued conditionally, subject to the final outcome of the matters which the committee had intended to re-open, as is being expressed even in the impugned order. If there are these many validity holders in the family, in our considered view, the petitioners are entitled to derive the benefit.

8. 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.

9. As far as validity obtained by Prashant Ramrao and Shivnarayan Ramrao, the committee has questioned the composition of the then committee which decided the matter of one of the validity holders. In our considered view, a successor committee cannot question such composition more so when according to rule 9(3), the decision of the committee which comprises of three members can be by majority. In that matter, there was no dispute about the eligibility of the other two members and consequently, this ground will not be sustainable.

10. Though the committee has refused to accept certificate of validity possessed by Vishwamber on the ground that he had been issued a validity by relying upon a similar certificate possessed by one Vivekanand Vyankatrao Tubkale who was not related to him from the paternal side, we have found that that was not the sole reason for the committee to recognize him as belonging to Koli Mahadev scheduled tribe.

11. In the light of above, the following order:-

I) The writ petition is partly allowed. The impugned order is quashed and set aside. The respondent-committee shall immediately issue tribe validity certificates to the petitioners 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.

II) The petitioners shall not be entitled to claim equities.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

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