

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

WRIT PETITION NO. 10842 OF 2023

- 1) Pornima Somnath Nirude,
Age 20 years, Occ. Student.
 - 2) Prithviraj Somnath Nirude
Age 17 years, Occ. Student
Under guardian father -
Somnath V. Narude,
both r/o. House No. 101, Priya
Apartment, Ravindra Nath Tagore
Nagar, Latur, Tq. & Dist. Latur
- ... **Petitioners**

VERSUS

Joint Commissioner,
Scheduled Tribe Certificate Scrutiny
Committee, Kinwat Division at
Aurangabad

... **Respondent**

...

Advocate for the Petitioner : Mr. Thorat Mohanish V.
A.G.P. for the Respondent/State : Mr. S. B. Yawalkar

...

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

DATE : **01.09.2023**

PER COURT :

Heard.

2. The petitioners who are siblings *inter se* are challenging the order of the respondent-scrutiny committee invalidating their claim of 'Mahadev Koli' scheduled tribe. Considering the fact that the petitioners are in urgent need of a decision to secure admission in the current admission process, the matter is taken up for final disposal at admission stage.

3. The learned advocate for the petitioners would submit that the impugned order is perverse and arbitrary. Number of favourable entries

which are consistent over a period of time have been ignored. In the process it has also conveniently ignored that the petitioners father Somnath possesses a certificate of validity since the year 2007, which was issued by following due process of law and after conducting vigilance enquiry. The committee now discards that validity for flimsy reasons. Even if the committee has now expressed its intention to undertake a review of the certificate issued to the petitioners father Somnath, till the time it is not confiscated and cancelled by following due process of law. The petitioners cannot be deprived of having the benefit.

4. Per contra, the learned A.G.P. submits that contrary entries were revealed which were conveniently concealed from the committee when Somnath obtained a certificate of validity. The committee has demonstrated as to how the circumstances indicate that there was fraud and has now decided to reopen the validity.

5. We have carefully considered the rival submissions and perused the papers. We have also carefully considered and gone through the original file of petitioners' father Somnath. It is apparent that Somnath was granted certificate of validity after following due process. Even vigilance enquiry was undertaken. Pertinently, even certain entries which the committee even now treats as a contrary entries in the school record wherein Somnath and his relations were described as 'Hindu Koli' were considered by the committee while granting certificate of validity to him by passing an elaborate order. Even if the committee now is attributing Somnath for having resorted to fraud, till the time that inference is not taken to the logical end and the validity certificate granted to him is not confiscated and cancelled, the petitioners cannot be deprived of deriving the benefit.

6. We do not intend to comment on the powers of the Committee to undertake such review or reopen the inquiries. Even if it has such a power, we do not intend to make any observations touching the circumstances

which according to the Committee constitute fraud, for two reasons. Since it is an issue which is directly and substantially in issue under consideration of the Scrutiny Committee we cannot make any observation which could have some bearing on that inquiry. Secondly, the validity holders are not before us. Therefore, we also do not intend to cause any prejudice to them by making certain observations touching the alleged fraud. We leave it at that.

7. In the circumstances, the impugned order is clearly perverse and arbitrary and is liable to be quashed and set aside.

8. The Writ Petition is partly allowed.

9. The impugned order dated 24.08.2023, passed by the respondent - scrutiny committee, is quashed and set aside.

10. The committee shall immediately issue tribe validity certificate to the petitioners as belonging to 'Mahadev Koli' scheduled tribe, which shall be subject to the decision to be taken by the Committee in the matters which it intends to reopen in respect of the validity holders.

11. The certificates of validity shall be issued in the prescribed format without incorporating other conditions/additions.

12. The petitioners shall not be entitled to claim equities.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

mkd/-