

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

WRIT PETITION NO.11323 OF 2022

Anjali d/o Baliram Muddewad
Age: 18 years, Occu. Education,
R/o: Walmik Nagar, Mukhed
Tq. Mukhed, District Nanded
through Power of Attorney Holder
Baliram s/o Ramrao Muddewad
Age : 47 years, Occu: Service
R/o. as above

... **PETITIONER**

VERSUS

1. The State of Maharashtra
through the Secretary
Medical Education and Drugs Department,
Mantralaya, Mumbai
2. The Scheduled Tribe Caste Certificate
Verification Committee Kinwat,
through its Dy. Director (R),
At Aurangabad.
3. The Commissioner & Competent Authority
Commissionerate of Common Entrance Test Cell,
Government of Maharashtra,
8th Floor, New Excelsior Building,
A.K. Naik Marg, Fort, Mumbai

... **RESPONDENTS**

...
Advocate for Petitioner : Mr. S.M. Vibhute
AGP for respondent Nos.1 and 2 : Mr. S.K. Tambe
...

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

DATE : 26.06.2023

ORDER (MANGESH S. PATIL, J.) :

Heard. Rule. The Rule is made returnable forthwith. Learned AGP waves service for the respondent Nos.1 and 2. At the joint request of the parties, the matter is heard finally at the stage of admission.

2. By way of this petition under Article 226 of the Constitution of India, the petitioner is impugning the order passed by the respondent No.2 - The Scheduled Tribe Caste Certificate Verification Committee (herein after the Verification Committee) whereby tribe certificate obtained by her as belonging to "Koli Mahadev" Scheduled Tribe has been cancelled and seized.

3. We have heard both the sides at length and perused the record including the original files with the respondent - Verification Committee not only in respect of the petitioner herself, but even her real paternal uncle Madhav Rama Muddewad.

4. At the outset it is necessary to note that admittedly the petitioner's paternal uncle Madhav was granted validity certificate. The Respondent - Verification Committee in the impugned order has observed that Madhav had apparently obtained the validity certificate based on the validities granted to few individuals who were actually not his blood relations. Admittedly, Madhav is no more and consequently no inference can be drawn by anybody behind his back.

5. Usually this Court has been granting validity certificates to the persons like petitioner subject to the condition that those would be subject to the outcome of the matters which the Verification Committee intends to reopen in respect of the validity holders from the blood relation. We may not be able to follow that course in this matter sans any inquiry in respect of Madhav's claim.

6. The Verification Committee in the impugned order, apart from

the observations in respect of Madhav, has refused to rely upon the oldest entry of one Rama Saydu Muddewad who was admittedly the grandfather of the petitioner from the parental side. The school record which is in Urdu has been got translated and the committee in the impugned order has drawn an inference that this school record of 1926 mentioning that petitioner's grandfather Rama was "Koli Mahadev" was not reliable. It was written at once in the same handwriting and in the same ink. It has observed that being an original school register, some entries ought to have been made while the students were being admitted, and some entries at later point of time when they left the school. By drawing such inference it has castigated that entry as bogus.

7. It is pertinent to note at this juncture that petitioner's paternal uncle Madhav's claim was initially rejected by the Verification Committee. He had approached this Court in Writ Petition No.854/2007. He attempted to produce the very same record of his father Rama and by the Judgment and order dated 12.02.2007 the order of the Verification Committee was quashed and set aside, the matter was remanded for decision afresh by extending opportunity to Madhav to produce the school record of his father Rama.

8. Admittedly, the Respondent - Verification Committee undertook a fresh inquiry. The matter was referred to the Vigilance Cell to verify the school record of Rama. On the basis of the report of the Vigilance Cell the Verification Committee accepted the school record of Rama, duly verified by

vigilance and accepted it without any demur.

9. If such is the state of affairs, when in the matter of Madhav an exercise was undertaken in respect of the selfsame school record of petitioner's grandfather - Rama, and the verification committee had accepted that record as a conclusive proof as was observed in that order dated 12.04.2007, whether the successor verification committee can be allowed to undertake a fresh scrutiny of the selfsame record and to reach an independent conclusion. In our considered view such a course is not available once the earlier verification committee has undertaken that exercise and the conclusion was drawn by resorting to a vigilance inquiry. It would be abuse of the process if the successor verification committee members indulge in a fresh scrutiny. It is not the case of the Verification Committee that its erstwhile members also were involved in some kind of fraud or were acting hand-in-gloves with the petitioner's paternal uncle Madhav.

10. Once the earlier Verification Committee had accepted the original school record of the petitioner's grandfather - Rama as conclusive proof, the present Verification Committee had no power and jurisdiction to undertake a fresh inquiry into its genuineness to reach a different conclusion.

11. Still, by way of abundant precaution we have carefully gone through the original files available with the Verification Committee and particularly the coloured photocopies of the school register. It is in Urdu.

The impugned order demonstrates that the Verification Committee had taken help of a translator to understand this entry and then has drawn an inference that this entry at serial No.410 in respect of the petitioner's grandfather Rama was written at once in same ink and in the same handwriting when those entries are from the date he was admitted to the school till the time he exited. *Ex facie*, we are not agreeable with this course adopted by the Respondent - Verification Committee. If the reasoning resorted to by it is to be accepted, this original school record ought to have shown in respect of number of entries available on the very same page to be partially in one handwriting and the remaining in some other handwriting. Even we are unable to concur with the conclusion of the committee that this entry at serial No.410 is in some different handwriting than the rest of the entries. At least, when the committee is not itself conversant with Urdu language and script, one wonders as to how it could have drawn such inference.

12. Besides, as is observed herein above already this very entry in respect of petitioner's grandfather was subjected to a scrutiny by the then Verification Committee while considering the matter of her paternal uncle Madhav had accepted it as a conclusive proof. The respondent - Verification Committee in the impugned order could not have resorted to any different reasoning and could not have drawn any other inference.

13. Once having found that this is a conclusive entry which is of the year 1926 in the name of petitioner's paternal side grandfather - Rama

mentioning his cast as Koli Mahadev, even if, as noticed by the Respondent - Verification Committee, there were some other doubtful entries of recent origin, those would not outweigh evidentiary value of the oldest entry of 1926, which clearly supports the petitioner's claim as belonging to Koli Mahadev. The Verification Committee has grossly erred in resorting to a fresh scrutiny which has resulted in passing of the impugned order which is clearly perverse and not sustainable in law.

14. The petition is allowed. The impugned order is quashed and set aside. The respondent - Verification Committee shall now issue a tribe validity certificate to the petitioner as belonging to "Koli Mahadev" scheduled tribe as expeditiously as possible and in any case within two weeks.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)