

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11301 OF 2023

- 1] Ruturaj S/o Jagjivan Sudewad
2] Yogeshwari D/o Jagjivan Sudewad .. Petitioners

Versus

- 1] The State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai – 32.
- 2] The Scheduled Tribe Certificate
Verification Committee, Kinwat Headquartered
at Aurangabad, through its Member Secretary
- 3] Maharashtra University of Health Science,
Nashik, Mhasrul, Dindori Road, Nashik
Through its Registrar
- 4] Dr. Shankarrao Chavan Govt. Medical
College and Hospital, Vishnupuri,
Nanded, Through its Dean .. Respondents

...
Advocate for petitioners : Mr. S.M. Kulkarni h/f. Mr. A.B. Kharosekar
AGP for the respondent – State : Mr. S.G. Sangale
Advocate for respondent no. 3 : Mr. J.R. Patil
...

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

DATE : 13 SEPTEMBER 2023

ORDER (MANGESH S. PATIL, J.) :

The petitioners who claim to be belonging to Koli Mahadev scheduled tribe are challenging the common order of the scrutiny committee passed in a proceeding under section 7 of the Maharashtra

Act No. XXIII of 2001 thereby confiscating and cancelling their tribe certificates.

2. In view of the urgency inasmuch as the petitioner no.1 having appeared at MHT-CET-2023 and is desirous of securing admission to direct 2nd Engineering Bachelor of Engineering Course seeking and petitioner no. 2 has completed her M.B.B.S. Course and internship course in the year 2022, her degree certificate and other educational documents are withheld, the matter has been heard finally at the stage of admission.

3. We have carefully considered the rival submissions and perused the record.

4. Even if one goes through the impugned order, the committee has reproduced the chart in respect of the school record and other documents wherein petitioners' blood relations have been shown to be Koli Mahadev. The committee has reproduced three entries in respect of one Narayan Satwa Sudewad, Vitthal Rukhmaji Sudewad and Pandurang Rukhmaji Sudewad of the year 1964, 1969 and 1970 wherein they have been described as Koli. However, conspicuously, this record has not been collected by the officer of the vigilance cell who conducted the enquiry and submitted the report to which the petitioners were called upon to submit their say. The committee has obtained this record from the matter of one Puja Shivaji

Sudewad. It is apparent that if the vigilance officer has not collected this record and if the petitioners were not extended an opportunity to comment upon them, the conduct of the committee to resort to it and use it as a contrary record to invalidate the petitioners' claim is clearly perverse and arbitrary.

5. If at all some adverse record was to be used by the committee, it was imperative for it to have solicited the petitioners' views before using that record against them. When it is vested with a quasi judicial power, this power requires giving to the parties the material which it intends to use against them.

6. Surprisingly, the committee has refused to extend the benefit of validity of the petitioners' father - Jagjivan and their cousin uncle Sanjay Nagorao Sudewad for the same reason that they have obtained the validities by concealing this contrary record which the committee recovered from the file of one Puja Shivaji Sudewad. Even the committee has not taken pains to point out as to how this Puja is related to the petitioners.

7. Be that as it may. The conduct of the committee in using some record on its own without soliciting any views of the petitioners is clearly against the principles of natural justice and, therefore, arbitrary and capricious.

8. Even if the committee now entertains some doubt about the validity holders having obtained the validities by resorting to fraud, it will have to take such inference to logical end by undertaking appropriate scrutiny by extending them an opportunity of being heard. It is not the version of the committee that no process as contemplated in law was followed while granting the certificates of validity to them.

9. In our considered view, till the time the certificates of validity possessed by the petitioners' father - Jagjivan is not confiscated and cancelled they cannot be deprived of deriving the benefit.

10. In the result, the following order :-

(i) The writ petition is partly allowed. The impugned order dated 07.09.2023 is quashed and set aside.

(ii) The Scrutiny Committee shall immediately issue tribe validity certificates to the petitioners as belonging to "Koli Mahadev" scheduled tribe, which shall be subject to the decision to be taken by the Committee in the reopened matters.

(iii) The petitioners shall not be entitled to claim equities..

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/