

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**BENCH AT AURANGABAD****Writ Petition No. 11432 / 2023**

Swapnil s/o Dattatraya Tumkute
Through Guardian Dattatraya Ambaji Tumkute **...Petitioner**

Versus

1. The State of Maharashtra,
Through its Secretary
Tribal Development Department,
Mantralaya, Mumbai.
2. The Scheduled Tribe Certificate
Scrutiny Committee, Kinwat
office at Aurangabad,
through its Member Secretary. **...Respondents**

Mr. Vivek U. Jadhav, Advocate for the Petitioner.
Mr. A. S. Shinde, AGP for respondents/State.

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

DATE : 14 SEPTEMBER 2023.

FINAL ORDER [SHAILESH P. BRAHME, J.] :

. Heard both the sides finally.

1. Being aggrieved by the judgment and order dated 08.09.2023 passed by the respondent no.2/Scrutiny Committee, invalidating petitioner's tribe certificate of Koli Mahadev scheduled tribe, the present petition is filed. He seeks parity in view of validity certificates issued to Dagdu and Shridevi, paternal side relatives. Independently, reliance is being placed on old revenue entry of 1945

and 1955 which are already verified during the course of vigilance enquiry.

2. The learned Advocate for the petitioner would submit that the Scrutiny Committee has committed perversity on the face of record in discarding the old entries referred above on the ground of manipulation. According to him, the old entries are genuine and strongly support the petitioner.

3. The learned AGP supports the impugned judgment and order. He submits that the Scrutiny Committee has rightly discarded the old record due to manipulation. The school record of the relatives of the petitioner would indicate caste as Koli, which is non-tribal. The validity certificates are rightly discarded because they were obtained by suppressing material facts. The validity certificate of Dagdu was based upon extraneous material and unreliable.

4. We have considered the submissions of the parties. The learned AGP has placed on record the original papers of petitioner. The petitioner is relying upon the old revenue entry of Gundappa Sanmukha, great grandfather of the petitioner of 1358 fasli, 1948 (A.D.), indicating caste as Koli Mahadev. Another old entry is of Aabaji Gundappa grandfather, which is of 1355 fasli, 1945 (A.D.). The Scrutiny Committee discarded both the entries on the ground that there is manipulation in the entries. The word 'Koli Mahadev' is stated to have been interpolated by different ink. With the assistance of learned Counsel, we have perused the coloured photocopy of both the entries. We find that there is absolutely no interpolation of any

type. Both the entries are genuine and were referred to the vigilance enquiry to verify the existence of the record.

5. We find that both the entries are of pre-constitutional period. They are reliable having greater probative value. The learned Counsel for the petitioner is right in submitting that the Scrutiny Committee committed perversity in discarding clinching evidence to support his claim.

6. The learned AGP has referred to contrary record of the relatives of the petitioner. We find that the contrary record which is sought to be relied by the learned AGP is of subsequent in time. The old record referred above would prevail. The Scrutiny Committee has committed patent illegality in rejecting the caste claim.

7. The learned Counsel for the petitioner is relying upon the validity certificate of Dagdu. The vigilance report of Dagdu is on record. It is submitted that by speaking order he was issued with validity certificate. The learned AGP has repelled the submission of the petitioner by pointing out the order of the Scrutiny Committee passed in the matter of Dagdu. It appears that the validity certificates of Hariram Govindrao Putthewad and Vijaykumar Shivaji Shanime were referred for issuing validity certificate to Dagdu. The old record of the Court at Gulbarga was also relied upon.

8. So far as the old record of the Court at Gulbarga is concerned, we are of the considered view that it is not reliable. We have

reservation for relying upon the validity certificate of Dagdu. However, the petitioner's claim cannot be rejected on that count. We have independently assessed the entitlement of the petitioner considering the old record. The impugned judgment and order is liable to be quashed.

9. We find that the petition deserves to be allowed by passing following order.

ORDER

- (i) The judgment and order dated 08.09.2023 passed by the Scrutiny Committee is quashed and set aside.
- (ii) The Scrutiny Committee shall issue tribe validity certificate of Koli Mahadev scheduled tribe to the petitioner forthwith.
- (iii) The writ petition is allowed in the above terms and disposed of accordingly.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]