

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

WRIT PETITION NO.11605 OF 2023

Shirish s/o Shahaji Boyane ... **PETITIONER**

VERSUS

1. The State of Maharashtra
through its Secretary
Tribal Development Department
Mantralaya Mumbai
2. The Scheduled Tribe Caste Certificate
Verification Committee, Kinwat,
Headquarter at Aurangabad
through its Dy. Director (R),
Dist. Aurangabad

... **RESPONDENTS**

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Advocate for Petitioner : Mr. Sunil Mahadevappa Vibhute
Addl.G.P. for respondent/State : Mr. S.G. Sangale

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

DATE : 15.09.2023

ORDER (MANGESH S. PATIL, J.) :

In view of the urgency being demonstrated the matter is taken up for final disposal at an admission stage.

2. By resorting to Article 226 of the Constitution of India the petitioner is challenging the order passed by the respondent – Scrutiny Committee in a proceeding under Section 7 of the Maharashtra Act XXIII of 2001, whereby, it has ordered petitioner's certificate of 'Koli Mahadev' scheduled tribe to be confiscated and cancelled.

3. Learned advocate for the petitioner submits that there are several validities in the family. There is no dispute about the genealogy. Few validities have been granted pursuant to the order of this Court. The certificate of validity was granted to one Somnath Rangnath Boyane and his three daughters as well as Shivila Sakhamam Boyane after conducting proper inquiry. He would submit that even otherwise there are no contrary entries. The Committee has not appreciated the facts and circumstances and has resorted to a perverse finding. He would submit that the petitioner is ready to run the risk of facing the consequences as contemplated in the matter of **Shweta Balaji Isankar Vs. State of Maharashtra and Ors.; WP No.6320/2017**, if and when the certificates of validities in the family are confiscated and cancelled in the matters which the Committee has decided to reopen.

4. The learned AGP submits that the Committee has found that the validity holder had obtained certificate of validity by resorting to fraud and has expressed its intention to reopen his case which it has jurisdiction and power. He would then submit that the petitioner had failed to discharge the burden cast on it by virtue of Section 8 of the Maharashtra Act XXIII of 2001. Attempt was made to manipulate the school record which was sufficient for the Committee to entertain a doubt. It has taken a plausible decision and the petition be dismissed.

5. We have carefully considered the rival submissions and perused the papers.

6. Apparently, there is no old record and whatever record is being relied upon to substantiate the claim is of recent origin. The fact remains that already there are several validities in the family some of which have been granted by this Court namely Somnath Rangnath Boyane his children Pooja, Dnyaneshvari and Rushikesh and also one Shivilila Sakharam Boyane. Though the Committee has now expressed doubt and even attributes fraud to the validity holders, in our considered view, it is a serious matter and the decision will have to be taken by the Committee by undertaking a full fledged inquiry. The validity holders are not before us. We do not intend to cause any prejudice to them by making certain observations in respect of the circumstances which the Committee relies upon to substantiate its inference about fraud having been practised.

7. Be that as it may, when the petitioner is ready to run the risk of facing the consequences, we find no reason not to concede to his request for having a conditional validity.

i. The writ petition is partly allowed.

ii. The impugned judgment and order dated 12.09.2023 passed by the Scrutiny Committee, is quashed and set aside.

iii. The committee shall immediately issue tribe validity certificate to the petitioner as belonging to 'Koli Mahadev' 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.

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

v. The petitioner shall not be entitled to claim equities.

vi. Considering the urgency in the matters, we request learned AGP to communicate this order to the Committee immediately, since the Law Officer of the Committee is present in this Court.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)