

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

Writ Petition No. 11454 / 2022

Nivedita d/o Nilesh Bhoirwad,
Age 18 years, Occu. Education,
R/o. At Post, Takali,
Tq. Udgir, Dist. Latur.

...Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai.
2. The Scrutiny Committee for Scheduled Tribes,
Through Vice-Chairman, Aurangabad.
3. The Commissioner & Competent Authority,
State of Common Entrance Test Cell,
Government of Maharashtra,
8th Floor, New Excelsior Building,
A.K. Naik Marg, Fort,
Mumbai-32.

...Respondents

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Mr. S. M. Kulkarni i/by Mr. O. B. Boinwad and Mr. A.B.
Kharosekar, Advocate for the Petitioner.

Mr. S. G. Sangale, AGP for Respondent No. 1 and 2.

Mr. S. G. Karlekar, Advocate for Respondent No.3

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

DATE : 10 JULY, 2023.

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

. Heard both the sides for final disposal.

1. The petitioner is challenging the judgment and order dated 21.10.2022 passed by the respondent no.2/Scrutiny Committee, invalidating her claim for scheduled tribe 'Koli Mahadev'. She has placed reliance upon the validity certificate issued in favour of her father, Nilesh. She has also placed on record the school record, vigilance report in case of her father/Nilesh, affidavits and reply to the vigilance report.

2. The Scrutiny Committee found that the school and revenue record was not compatible with the claim of the petitioner. The school entries of the relatives of the petitioner namely Mankodi, Manukode, Manukodi show 'Koli' as tribe. Tampering of record was found in case of Kondiba and Sunita Bhoinwad. The vigilance report and the affinity test were against the petitioner. In case of many relatives of the petitioner, the tribe was recorded to be 'Koli', which is inconsistent with the claim of the petitioner.

3. The validity certificate of father/Nilesh was held to have been procured by suppression of material facts. It was also observed that due procedure was not followed while issuing the validity certificate.

4. The learned AGP supports the impugned judgment and order and prays for dismissal of the writ petition.

5. The caste validity certificate of father of the petitioner was issued after following due procedure of law. There was vigilance enquiry. A report thereof is placed on record at Exhibit-O. The relevant material was considered by the Scrutiny Committee. There is no reason to disbelieve the validity certificate of Nilesh. In view of the principles laid down by the Supreme Court in Paragraph nos. 22 to 24 of judgment in case of **Maharashtra Adavasi Thakur Jamat Swarakshak Samiti vs. State of Maharashtra & others** reported in 2023(2) Mh.L.J.785, we are bound to rely upon the validity certificates of father of the petitioner.

6. We find that the Scrutiny Committee ought to have validated the claim of the petitioner. Unless the validity certificate of the father is cancelled or revoked. There is no point in depriving the petitioner from the social status. The impugned judgment and order is thus arbitrary and unsustainable. We therefore pass the following order.

ORDER

(i) The writ petition is partly allowed.

- (ii) The judgment and order dated 21.10.2022 passed by the respondent no.2/Scrutiny Committee, is quashed and set aside.
- (iii) The Scrutiny Committee shall issue tribe validity certificate in favour of the petitioner for scheduled tribe 'Koli Mahadev' within a period of two weeks on following conditions that;
- [a] the validity certificate shall be subject to the outcome to the proposed reopening of the validity certificate of father of the petitioner.
 - [b] the petitioner shall not claim any equity.
 - [c] the petitioner shall cooperate with the Scrutiny Committee.
- (iv) In view of above terms, the writ petition is disposed of.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]