

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11793 OF 2022

Avdhut S/o Prabhu Jungulwad,
Age : 20 years, Occu : Student,
R/o. At Post Bolsa Bk., Tq. Umri,
Dist. Nanded Pin – 431 808.

.. Petitioner

Versus

- 1] The State of Maharashtra
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai – 32.
- 2] Deputy Director (Research)
and Member Secretary,
Scheduled Tribe Certificate
Verification Committee, Kinwat,
Headquarter, Aurangabad
Near Saint Lawrence High School,
Town Centre, CIDCO, Aurangabad
Dist. Aurangabad

.. Respondents

...
Advocate for petitioner : Mr. C.R. Thorat
Addl. GP for the respondent – State : Mr. P.S. Patil
...

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

DATE : 12 JULY 2023

ORDER (MANGESH S. PATIL, J.) :

Rule. Rule made returnable forthwith.

2. Learned Additional Government Pleader waives service.

3. At the joint request of the parties, the petition is heard finally at the stage of admission.

4. By way of present petition, the petitioner is challenging the judgment and order dated 04-11-2022 passed by the respondent no. 2 - Scheduled Tribe Certificate Verification Committee invalidating his claim as belonging to *Koli Mahadev* scheduled tribe.

5. Learned advocate for the petitioner would submit that the on 27-10-2016, the competent authority has issued the petitioner tribe certificate as belonging to *Koli Mahadev* scheduled tribe but the same has been invalidated by the impugned order passed by the respondent no. 2.

6. He would further point out that cousin uncle of the petitioner, namely, Gangadhar Digambar Jungulwad has been already issued with the tribe validity certificate as belonging to *Koli Mahadev* scheduled tribe by the scrutiny committee on 29-06-2011. He points out that in case of Gangadhar, the scrutiny committee has verified the record of father of Gangadhar i.e. Digambar Jungulwad and said document is dated 19-06-1955.

7. He would also point out various entries in the school extract of Digambar Moglaji Jungulwad, who is the cousin grandfather of the petitioner, cousin uncle of the petitioner, namely, Sainath Digambar Jungulwad mentioning the tribe as *Koli Mahadev* scheduled tribe.

8. Both the sides have taken us through the entire record in the present petition. They attempted to demonstrate as to how the evidence before the scrutiny committee was sufficient to substantiate the claim of the petitioner or otherwise.

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

10. We are of the considered view that since the petitioner has been relying upon the validities of the blood relations from the paternal side which are still in existence and have not been revoked or cancelled and when there is absolutely no dispute about the blood relation between these validity holders and the petitioner, we are bound by the observations of the Supreme Court in the matter of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others; 2023 SCC Online SC 326***. It has been specifically observed therein that the committee is entitled to demonstrate that the validities being relied upon by the claimants were not obtained in accordance with the decision in the matter of ***Ku. Madhuri Patil and another Vs. Additional Commissioner, Tribal Development, Thane and others; (1997) 5 SCC 437*** or the rules, the scrutiny committee is entitled to undertake a fresh scrutiny by issuing notices to the validity holders. However, if there is no dispute about the claimant being a blood relative from the paternal side of the validity holder, such validity should benefit the claimant.

11. This Court has been consistently granting validities making it subject to the condition and with a rider that such validity certificates would be subject to the outcome of the cases being re-opened by the committees.

12. Admittedly there are number of validity holders whose certificates are still to be revoked and cancelled. The petitioner being the blood relation from the paternal side cannot be refused the validity certificate.

13. We allow the writ petition partly.

14. The impugned order is quashed and set aside.

15. The respondent no. 2 – scrutiny committee shall immediately issue the validity certificate to the petitioner as expeditiously as possible and in any case within two weeks. However, such certificate would be subject to the outcome of the matter/s being re-opened by the scrutiny committee and that the petitioner shall not claim equities. Rule is made absolute.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/