

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

WRIT PETITION NO. 12104 OF 2023

Onkar Gangadhar Chandalwad,
Age : 19 years, Occu. : Student,
R/o Mendka, Tq. Mudkhed,
Dist. Nanded.

.. Petitioner

Versus

1. The State of Maharashtra.
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai – 32.

2. The Scheduled Tribe Certificate
Scrutiny Committee, Kinvat,
Head Quarter, Aurangabad
Through its Deputy Director (R).

.. Respondents

Shri Pratap V. Jadhavar, Advocate for the Petitioner.
Shri A. A. Jagatkar, A.G.P. for the Respondent Nos. 1 and 2.

**CORAM : MANGESH S. PATIL AND
SHAILESH P. BRAHME, JJ.
DATE : 09 OCTOBER 2023.**

FINAL ORDER (*Per Shailesh P. Brahme, J.*) :-

. Heard both the sides finally at the admission stage.

2. The petitioner is assailing the judgment and order dated 29.09.2022 passed by the respondent No. 2/Scrutiny Committee invalidating his tribe claim of 'Koli Mahadev' (Scheduled Tribe) and confiscating the tribe certificate.

2. The petitioner seeks to rely upon the validity certificate of cousin Sandesh Vishwanath Chandalwad. After conducting the thorough scrutiny of the self same record, Sandesh was issued with the validity certificate. It is submitted that the old record was also considered and the successive scrutiny committee has no jurisdiction to invalidate the tribe claim.

3. The learned Assistant Government Pleader would support the impugned judgment and order. According to him the Scrutiny Committee is justified in rejecting the tribe claim of the petitioner. The contrary entries were found in the school record of the Vishwanath Ramchandra Chandalwad and manipulation was noticed in the school record of close relatives of the petitioner. He would submit that old revenue record of great grandfather of the petitioner, Shambhu Satwaji is found to be incompatible with the claim of the petitioner.

4. The learned A. G. P. submits that the validity certificate which is sought to be relied by the petitioner is found to be procured by suppression of material facts. It is founded on extraneous material. It is informed that the Committee has proposed to reopen the validity certificate of Sandesh. The learned A. G. P. has produced on record the original file of the petitioner.

5. We have considered the rival submissions of the parties.

6. The genealogy is produced on record which is at page No.

19 of the petition. Sandesh is the cousin of the petitioner and the relationship is not disputed by the respondents. The report of the vigilance enquiry in the matter of Sandesh is placed on record. The documentary evidence which was considered is enlisted in the report. The school record indicating caste Koli Mahadev of Ramchandra Sambhaji Chandalwad is of 1956, which is the oldest one. Sandesh was issued with the validity certificate by speaking order. We find that after following due procedure of law Sandesh was issued with the validity certificate. His validity certificate is reliable. It should inure to the benefit of the petitioner.

7. It can be seen from the record that there is consistent record indicating caste Koli Mahadev from the year 1956 till 2021. The admission extract of Ramchandra Sambhaji Chandalwad is of 1956. As against that the contrary entries appear to be of later period. The old record has greater probative value. Applying principles of preponderance of probabilities, the petitioner has made out the case for issuance of validity certificate. The Committee has committed an error of jurisdiction in rejecting the tribe claim of the petitioner.

8. The learned A. G. P. has vehemently pointed out the contrary entries from the colour photographs in the original file. The extracts of the admission register of the school showing caste recorded as Koli Mahadev of Ramchandra Sambhaji cannot be castigated as manipulated one. The school entry of Parvati favouring the petitioner appears to be doubtful, but that itself is

not decisive. Unless the validity certificate of Sandesh is revoked, the petitioner cannot be deprived of the benefit of same social status.

9. We have considered revenue record of Shambhu Satwaji especially colour photographs. The said entry is castigated as contrary entry. There is no column of caste in the revenue record. In column No. 9, there is word Koli, but necessarily it cannot be inferred that it is caste. It can be surname of Shambhu Satwaji. Therefore, we do not approve the finding recorded by the Committee in respect of revenue entry of Shambhu Satwaji.

10. The validity certificate of Sandesh is discarded by the Committee because the validity certificates of maternal side relatives were considered for issuing him validity certificate. We find that there was other documentary evidence on record to issue him validity certificate. The Committee erred in discarding his validity certificate.

11. We find that the impugned judgment and order is unsustainable. We therefore pass following order.

ORDER

A. The writ petition is partly allowed.

B. The impugned judgment and order dated 29.09.2022 passed by the respondent No. 2/Scrutiny Committee is quashed

and set aside.

C. The respondent No. 2/Scrutiny Committee shall issue tribe validity certificate to the petitioner as belonging to 'Koli Mahadev' (Scheduled Tribe) immediately in prescribed format without adding anything.

D. The said validity certificate shall be subject to outcome of reverification proposed by the respondent No. 2/Scrutiny Committee.

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

F. The writ petition is disposed of.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

bsb/Oct. 23