



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

949 WRIT PETITION NO. 12109 OF 2023

Aakash Pravin Sonwane

Age : 17 years, Occu : Education,
Through Natural Guardian i.e. Father

Pravin Suwalal Sonawane

Age : 47 years, Occu : Service,
R/o. Morane Pr. Laling,
Tq. & Dist. Dhule

.. Petitioner

Versus

Scheduled Tribe Certificate

Scrutiny Committee, Dhule,

Through its Member Secretary

.. Respondent

...

Advocate for Petitioner : Mr. Sagar S. Phatale and
Mr. Vasant B. Bholankar

AGP for Respondent / State : Mr. M. M. Nerlikar

...

**CORAM : MANGESH S. PATIL
AND
NEERAJ P. DHOTE, JJ.**

DATED : DECEMBER 14, 2023

FINAL ORDER :

. Heard both the sides finally at the stage of admission.

2. The petitioner is challenging the order dated 31.08.2023
passed by the respondent - Scrutiny Committee invalidating his 'Tokre
Koli' Scheduled Tribe certificate.

3. After hearing both the sides for a while, it transpires that a similar order of invalidation in the matter of petitioner's brother Bhushan was the subject matter of scrutiny of this Court in Writ Petition No. 11746 of 2023. Both the orders, in the matter of present petitioner and in the matter of petitioner's brother Bhushan were passed by the respondent – Scrutiny Committee a month apart.

4. The same set of evidence that was before the Scrutiny Committee which decided Bhushan's claim has been considered by the present Committee while passing the impugned order.

5. Conspicuously, though the oldest favourable entry of Suwalal of the year 1933 and that of Motilal of the year 1937 apart from other three pre-constitutional favourable entries were available before the Scrutiny Committees. Those favourable and oldest entries were ignored by the Scrutiny Committee but subsequent adverse entries have been taken into consideration. It was expressly observed by this Court in Bhushan's matter that the oldest favourable record would have greater probative value. The Scrutiny Committee has fallen in error in drawing inference only on the ground that few subsequent entries in the school record and birth record were 'Koli' which were inconsistent with the tribe claim of 'Tokre Koli'. As laid down in the matter of **Anand**

Vs. Committee for Scrutiny and Verification of Tribe Claims and Ors., (2012) 1 SCC 113, the oldest record would prevail over the contrary record of the later period. Pertinently, the Committee has not assigned any reason much less cogent one as to why the oldest favourable record is to be ignored, more so when the vigilance report did not express any doubt about its genuineness.

6. Consequently, on merits also, the petitioner is entitled to have certificate of validity independent of the validities being relied upon by him.

7. In light of above, the following order is passed.

ORDER

- (i) The Writ Petition is allowed.
- (ii) The impugned order is quashed and set aside.
- (iii) The Respondent - Scrutiny Committee shall issue 'Tokre Koli', Scheduled Tribe validity certificate to the petitioner immediately.

[NEERAJ P. DHOTE]
JUDGE

[MANGESH S. PATIL]
JUDGE