

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

WRIT PETITION NO. 12230 OF 2023

1. Mohnish Dilip Jamadar
2. Ku. Vaishnavi D/o. Dilip Jamdar ... Petitioner

VERSUS

The State of Maharashtra and another ... Respondents

Shri Omgashad B. Boinwad, Advocate for the Petitioners
Shri S.G.Sangale, A.G.P for the Respondent Nos. 1 and 2

...

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

DATE : 09 OCTOBER 2023

PER COURT : (*PER : SHAILESH P. BRAHME, J*) :

1. Heard both the sides finally.
2. The petitioners are challenging judgment and order dated 27.09.2023, passed by the Scrutiny Committee invalidating the tribe certificate of the petitioner and confiscating the same. The petitioners seek reliance upon validity certificate of their father. According to them, self-same record was considered and father was issued with validity certificate. Additionally, they are also relying upon the birth extract of father which has greater probative value.

3. The learned AGP supports impugned judgment and order. According to him, the tribe claim is rightly rejected by the scrutiny committee, considering the contrary entries in the record of paternal side relatives. The school record of the father of the petitioners is found to have been manipulated. The validity certificate which is sought to be relied upon by the petitioner is procured by suppression of material facts and is not reliable. He would submit that there is no perversity or patent illegality to cause interference in the impugned judgment and order.

4. We have considered the genealogy which is at page no. 32. The name of the petitioners father was Vilas Shivdas Koli. It was changed to Dilip Shivdas Jamadar. The Gazetted notification to that effect is placed on record. This change has to be considered while appreciating the evidence on record.

5. We have considered the rival submissions of the parties. We have gone through the vigilance report prepared while considering the tribe claim of the father of the petitioner. There is old record of grandfather of the petitioners indicating caste as 'Koli Mahadev'. Surprisingly, no vigilance enquiry was conducted in respect of the old document. It should enure to the benefit of the petitioners. It has greater probative value. The Scrutiny Committee has overlooked the clinching evidence. We find that the petitioner has made out a case for issuing validity certificates.

6. Unless the validity certificate of father is revoked, the petitioners cannot be denied benefit of tribe certificate. The committee has intended to reopen validity certificate of the father of the petitioner. We are of the considered view that petitioner is entitled to conditional validity. We therefore allow this petition partly.

ORDER

- i) The writ petition is partly allowed.
- ii) The impugned judgment and order dated 27.09.2023 passed by the respondent No. 2/ Scrutiny Committee is quashed and set aside.
- iii) The respondent No. 2/ Scrutiny Committee shall issue certificates of validity to the petitioners as belonging to '*Koli Mahadev*' (Scheduled Tribe) immediately in prescribed form without adding anything.
- iv) The certificates of validity shall be subject to the outcome of the reopened matter of the petitioner's father.
- v) Petitioner's father shall co-operate the Scrutiny Committee for decision of reopened matter and the Committee shall decide it finally within a period of six (06) weeks from today.

vi) The petitioners shall not be entitled to claim any equities.

vii) The writ petition is disposed of.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

spc/