

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 12668 OF 2023

Sakshi D/o Ram Yeshwant
Age : 20 years, Occu : Student,
R/o At Post Deola, Tq. Ambajogai,
Dist. Beed

.. Petitioner

Versus

- 1] The State of Maharashtra,
Through its Principal Secretary,
Tribal Development Department,
Mantralaya, Mumbai – 32
- 2] The Maharashtra Scheduled Tribe
Certificate Scrutiny Committee,
Aurangabad Division, Aurangabad
- 3] The Sub-Divisional Officer,
Ambejogai, Dist. Beed .. **(Deleted)**
- 4] The Directorate of Technical Education,
Maharashtra State – Mumbai
3, Mahapalika Marg, Post Box 1967,
Mumbai 400 001 .. **(Deleted)**
- 5] The Principal,
Shreeyash College of Engineering and Technology,
Gut No. 258(P), Satara Tanda,
Tq. & Dist. Aurangabad .. **(Deleted)**

**(Respondents 3 to 5 deleted as per
Court's order dated 11.10.2023)**

.. Respondents

...
Advocate for petitioner : Mr. U.R. Awate h/f. Mr. Talekar & Associates
Addl.GP for the respondents 1 and 2 : Mr. S.B. Yawalkar
...

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

DATE : 19 OCTOBER 2023

JUDGMENT (MANGESH S. PATIL, J.) :

Heard. Rule. Rule is made returnable forthwith. Learned AGP waives service for respondents 1 and 2. At the joint request of the parties, the matter is heard finally at the stage of admission.

2. The petitioner is challenging the order of the scrutiny committee invalidating her Koli Mahadev scheduled tribe certificate.

3. The learned advocate for the petitioner submits that the impugned order is perverse and arbitrary. The Hindu entries in the school record have been treated as adverse entries when it is not a caste but a religion. The committee has overlooked even the certificates of validity in the family. Petitioner's cousin Shubham Shivaji possesses a certificate of validity granted pursuant to the order of this Court. Since the committee has not disputed the relationship between the two of them, petitioner may be granted certificate of validity conditionally. She is ready to run the risk of facing the consequences as contemplated in the matter of ***Shweta Balaji Isankar Vs. State of Maharashtra and others (writ petition no. 6320 of 2017)***.

4. Per contra, the learned AGP submits that all the favourable entries relied upon by the petitioner are of recent origin. Several family members' school record indicated that they were 'Hindu' or 'Hindu Koli' which is inconsistent with the petitioner's claim of belonging to 'Koli

Mahadev'. The committee has taken a plausible view and no interference can be made.

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

6. Obviously, entries in the school record of the family members of 'Hindu' cannot be treated as contrary entries inasmuch as it is a religion and not a caste. It is a matter of record, as can be seen from the impugned order, there are several favourable entries as well of 'Koli Mahadev'. Though there are certain entries of 'Koli' or 'Hindu Koli' which are not compatible with the claim, 'Koli' being falling under Special Backward Category (SBC), whereas 'Koli Mahadev' is a scheduled tribe. It is also apparent that in respect of some entries, there is manipulation stating that words 'Mahadev' or 'Mahadev Koli' have been overwritten in the caste column of the school record of the petitioner's cousin uncle but those are of the year 1973 to 1981.

7. Though the committee says that petitioner's cousin uncle Yeshwant Namdev Yedba's school record shows him to be Koli, conspicuously, the year or the date of the recorded entry is missing. Whatever may be the case, the fact remains that on the basis of the very record, pursuant to the order of this Court in writ petition no. 1290 of 2022, petitioner's blood relation Shubham Shivaji Yeshwant was directed to be issued with a certificate of validity subject to the

condition that its validity would depend upon the matters which the committee had decided to reopen in respect of the validity holders relied upon by them.

8. Pertinently, this Court had noted that there was an old document of 1955 in the form of agreement between grandfather of Shubham i.e. Yedba and another person which was in Urdu script mentioning him to be 'Koli Mahadev'. It was also observed that this record was relied upon even in the matter of validity holder Hanumant. If the committee has not doubted the blood relationship between the petitioner and Shubham, even if that record is not before the committee in the matter in hand, it would be a relevant circumstance and piece of evidence which would substantiate the petitioner's claim.

9. We do not intend to make any comment on the powers of the committee to undertake a review and the facts which according to the committee constitute fraud or misrepresentation. We are doing so for two reasons; firstly the validity holders are not before us and we do not intend to cause any prejudice to them by making observations in this matter behind their back and secondly, any observation made by us could have a bearing on the matters which the committee has decided to re-open.

10. In the result, the following order :-

1) The writ petition is partly allowed.

- II) The impugned order dated 20.09.2023, passed by the Scrutiny Committee is quashed and set aside.
- III) The Committee shall immediately issue tribe validity certificate to the petitioner as belonging to 'Koli Mahadev' scheduled tribe, which shall be subject to the decision to be taken by the Committee in the matters which it intends to reopen in respect of the validity holders.
- IV) The certificate of validity shall be issued in the prescribed format without incorporating other conditions / additions.
- V) The petitioner shall not be entitled to claim equities.
- VI) Rule is made absolute accordingly.

[SHAILESH P. BRAHME]
JUDGE

arp/

[MANGESH S. PATIL]
JUDGE