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

WRIT PETITION NO.636 OF 2022

ADITYA S/O BALAJIRAO ROYLAWAR
VERSUS
THE STATE OF MAHARASHTRA, THROUGH ITS
SECRETARY, MEDICAL EDUCATION DEPARTMENT AND
OTHERS

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Mr S. R. Barlinge, Advocate h/f Mr O. B. Boinwad, Advocate for
petitioner;

Mr S. G. Karlekar, A.G.P. for respondent Nos.1 & 2

**CORAM : RAVINDRA V. GHUGE
AND
SANJAY A. DESHMUKH, JJ.**

DATE : 2nd February, 2023

PER COURT:

1. The petitioner has put forth prayer clauses (A), (B), (C) and
(D), which read as under :-

*“A) This Writ Petition may kindly be allowed and
petitioner may kindly be held and declare as they belongs to
“Koli Mahadev” Scheduled Tribe.*

*B) The impugned Judgment and order dated 10.12.2021
passed by the respondent no. 2 committee, invalidating the
Tribe Claim of the petitioner of “Koli Mahadev” Schedule
Tribe, may kindly be quashed and set aside and respondent
no. 2 committee may kindly be directed to issue Tribe
Validity Certificate of “Koli Mahadev” Tribe in favor of the
petitioner.*

(2)

C) Pending hearing and final disposal of the petition, the impugned Judgment and order dated 10.12.2021 passed by the respondent no. 2 committee, invalidating the Tribe Claims of the petitioner of “Koli Mahadev” Schedule Tribe, may kindly be stayed.

D) Resp. No.3 University and Resp.No. 4 College may kindly be directed to not take any adverse action against the petitioner on the basis of impugned Judgment and order dated 10.12.2021 passed by the respondent no. 2 committee, invalidating the Tribe Claims of the petitioner of “Koli Mahadev” Schedule Tribe.”

2. On 28/01/2022, this Court had issued notice and had directed the respondents ‘not to refrain (sic. restrain) the petitioner from continuing the internship programme only on the ground that his caste claim is invalidated’.

3. The petitioner is amongst the three claimants, whose claims of belonging to the ‘Koli Mahadev’ – Scheduled Tribe, has been rejected by the impugned common order dated 10/12/2021. This petitioner has already passed his MBBS examination. The claim of the other two candidates, namely, Aniket Govind Roylawar and Miss. Vaishnavi Sanjeev Roylawar, have been allowed by this Court, vide order dated 12/12/2022, passed in Writ Petition No.14349/2021. Reliance is placed by the present petitioner on the said order and upon **Apoorva d/o Vinay Nichale Vs.**

(3)

**Divisional Caste Certificate Scrutiny Committee No.1,
Nagpur, 2010 (6) Mh.L.J. 401 : AIR 2010 (6) BOM R 21.**

4. We have considered the submissions of the learned Advocates for the respective sides.

5. We have considered the family tree placed before us by the petitioner and we find as under :-

(a) The petitioner Aditya is the son of Balaji Gangaram and grandson of Gangaram Hanmanju Roylawar. His father Balaji Gangaram has received a validity certificate.

(b) Aniket, who succeeded before this Court vide order dated 12/12/2022, is the son of Govind Gangaram. Govind Gangaram and Balaji Gangaram are biological brothers. Chaitanya Vyankat and Tushar Vyankat, who are grand children of Gangaram, have been granted conditional validity certificates by the High Court. Vyankat is the biological bother of Balaji and Govind.

(c) The biological sister of the petitioner i.e. Anjali Balaji has also been granted a validity by the Committee. Balaji

(4)

Gangaram and his biological brother Shriniwas Gangaram have been granted validity certificates by the Committee.

(d) Vaishnavi, daughter of Sanjeev Hullaji Roylawar has also been granted validity certificate by this Court vide order dated 12/12/2022. Vaishnavi is the grand daughter of Hullaji and Hullaji and Gangaram are biological brothers. Her cousin Pravin, son of Baliram and grandson of Hullaji, has also been granted validity certificate by the Committee.

6. The learned A.G.P. has strenuously canvassed that the Committee has arrived at a conclusion that there is some material available against the petitioner, which can be termed as contra evidence, and hence, the claim of the petitioner has been invalidated. The High Court has granted a conditional order in favour of Chaitanya Vyankat and Tushar Vyankat.

7. Considering the above, we find that the law laid down in Apoorva Vinay Nichale (supra), would squarely apply to the case of the present petitioner, keeping in view that his cousins, namely, Chaitanya Vyankat Roylawar, Tushar Vyankat Roylawar, biological sister Anjali Balaji Roylawar, his father Balaji

Gangaram Roylawar, Uncle Shriniwas Gangaram Roylawar and cousin brother Pravin, have been granted validity certificates.

8. What intrigues us is, that the Committee invalidates claims of such applicants whose biological father, biological brothers of the father, blood relatives in the nature of cousin brothers, have received validity certificates. In some cases, the Committee relies upon the fact that notice is being issued to certain validity holders, who are suspected of having played a fraud or some new material has been noticed, due to which, such cases are sought to be reopened. However, after re-opening of such cases, the Committee does not proceed further.

9. A similar situation was before this Court in the case of **Shweta Balaji Isankar Vs. State of Maharashtra and others**, in Writ Petition No.5611/2018 decided by this Court on 27/07/2018 (Coram : S. C. Dharmadhikari and Bharati H. Dangre, JJ.). The stand taken in Shweta's case (supra), is that notice has been issued to that validity holder, on whom Shweta had placed reliance. This Court concluded that, merely issuing notice with an intention of reopening the case, without resorting to any steps thereafter, and

(6)

keeping the case pending, cannot be a ground to deny validity, when several blood relatives have been granted such validity.

10. We deem it appropriate to reproduce paragraph Nos.2, 3 and 4 from Shweta Balaji Isankar (supra), as under :-

“2. On the earlier occasion, we found that though the petitioner produced credible evidence in the form of certificates of validity issued to her real uncle Govind Sambhaji Isankar and which concededly has been issued way back on 5th December 2005 and another certificate of validity dated 5th September 2006 to his cousin uncle Ramdas Sambhaji Isankar, the Committee finds that the certificate of validity issued to the real uncle Govind, is not free from suspicion. It is held by the Committee in the impugned order that a notice to show cause has been issued to said Govind on 14th September 2017, calling upon him to show cause as to why this certificate of validity should not be cancelled as its issuance is vitiated by fraud or suppression of material facts by the said Govind.

3. On such a finding being rendered by the Committee, we called upon the learned AGP on the earlier two occasions to produce the record. We also indicated to the learned AGP as to how the certificate of validity is denied to the petitioner though she has established her relationship with the said Govind and only on the ground that a show cause notice has been issued, but no proceedings in furtherance thereof came to be initiated till date. The learned AGP sought time to file an affidavit. Now, the Joint Commissioner, Schedule Tribe Scrutiny Committee, Aurangabad has filed an affidavit in reply. That is taken on record. The said affidavit admits that the certificate of validity has been issued to her real uncle and

cousin uncle of the petitioner. The affidavit admits that the petitioner relies heavily on these two documents, but clarifies that there is a suppression detected from the original record of the certificate holder and that is how a show cause notice has been issued to Govind. The show cause notice could not be taken to its logical end on account of the huge pendency of cases before this Committee. In all, 7,000 matters were pending on the date when this Joint Commissioner took charge and he has reduced the pendency by 2500 cases being decided. In the circumstances, he says that appropriate orders and directions be issued by this Court.

4. We are not impressed by this explanation and the justification not to proceed against a person who has perpetrated a fraud on the public. If it is a serious allegation and which is termed as fraud, then, it should have been taken to its logical end. Mere issuance of a show cause notice in the present case would not suffice for there are two certificates of validity relied upon. The only reason assigned in the impugned order to discard them, cannot be sustained. The justification in the above affidavit is also not enough to straightaway discard the certificates of validity issued in the family. It is conceded that other reasons assigned in the impugned order cannot be supported in law.”

11. In view of the above, we are in respectful agreement with the law laid down in Apoorva Vinay Nichale (supra) and Shweta Balaji Isankar (supra). If the Committee has decided to reopen any case of such a validity holder, on whose validity the petitioner has relied upon, by applying the law laid down in Shweta Balaji Isankar (supra), the consequences that would be suffered by such

(8)

a candidate, if his claim is invalidated after reopening of the case, would befall upon the petitioner. In Shweta's case, this Court had, therefore, observed in paragraph No. 8, as under :-

“8. This order does not prevent the Committee from proceeding against Govind in accordance with law and needless to further clarify that in the event Govind's claim is invalidated, all the consequences shall be taken by the petitioner as well.”

12. In view of the above, this petition is partly allowed. The impugned order passed by the Scrutiny Committee dated 10/12/2021, stands quashed and set aside. The validity certificate with reference to the 'Koli Mahadev' - Scheduled Tribe claim of the petitioner, shall be issued by the Competent Kinwat Committee at Aurangabad, on or before 10/02/2023. The petitioner would collect the validity certificate at 4.00 p.m. on 10/02/2023 from the office of the said Committee at Aurangabad.

13. Needless to state, this order would not be an impediment for the Committee to proceed with the reopened case of Govind. In the event Govind's claim is invalidated, akin to the order passed on 27/07/2018, in the case of Shweta Balaji Isankar (supra), the effects flowing from the invalidity of Govind's or Balaji's claim,

(9)

will be applicable to Aditya. All consequences would, therefore, befall upon Aditya.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE, J.)

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