

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

WRIT PETITION NO. 12715 OF 2023

Amol S/o Tukaram Devale,
Age : 28 years, Occu. : Education,
R/o Borda, Tq. Gangakhed,
Dist. Parbhani.

.. Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary,
Medical Education and
Drugs Department,
Mantralaya, Mumbai.

2. The Scheduled Tribe Caste Certificate
Verification Committee, Aurangabad,
through its Dy. Director (R),
Aurangabad.

.. Respondents

Shri G. K. Chinchole, Advocate h/f Shri Sunil M. Vibhute,
Advocate for the Petitioner.

Shri S. G. Sangale, A.G.P. for the Respondent Nos. 1 and 2.

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

DATE : 18 OCTOBER 2023.

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

. Heard learned counsel for respective parties for final disposal at the admission stage.

2. The petitioner is assailing the judgment and order dated 05.10.2023 passed by the respondent No. 2/Scrutiny Committee

invalidating the tribe certificate of the petitioner as belonging 'Koli Mahadev' (Scheduled Tribe) and confiscating the same.

3. The petitioner seeks to rely upon validity certificate issued to his father Tukaram. The learned counsel for the petitioner submits that when the self same record is already scrutinized and validity certificate is issued to the father of the petitioner, the committee has committed perversity in rejecting caste claim of the petitioner. He further submits that, there is old record to support his claim for his caste Koli Mahadev.

4. Per contra the learned Assistant Government Pleader would oppose the claim of the petitioner. The learned A. G. P. submits that the committee is justified in rejecting the caste claim considering the contrary entries of Kachari as well as tampering of record found in the case of Shanta, Archana, one Shivram. The validity certificate of the father of the petitioner is not reliable. The committee has taken a plausible view and there is no case made out to interfere with the impugned judgment and order.

5. The genealogy which is placed on record discloses that the father of the petitioner was issued with the tribe validity certificate. The vigilance enquiry report of the father is placed on record. It shows that the documentary evidence was considered. One of the documents indicate caste as Koli Mahadev that is of 1955. It has probative value. There is no dispute that father was issued with the validity certificate by

speaking order. We hold that the validity certificate issued to the father after following due procedure of law. On the ground of parity the petitioner is entitled to the validity certificate. We rely upon the judgment of the Supreme Court in the case of **Maharashtra Adivasi Thakur Jamat Swarakshak Samiti Vs. State of Maharashtra and others** reported in **2023 (2) Mh. L. J. 785.**

6. The learned A. G. P. vehemently opposed the claim pointing out the contrary entries and tampering of the record. The petitioner has already denied the contrary entries which are appearing on page No. 28, which is part of vigilance enquiry report. Reply given by the petitioner to the report is very specific in that regard. When the father is issued with the validity certificate despite the contrary entries, there is no reason for the committee to deny the social status to the petitioner till the validity certificate of the father is intact.

7. It is stated in the impugned judgment and order that the committee has decided to reopen the validity certificate of the father of the petitioner. Unless the validity certificate of the father is revoked, the petitioner cannot be deprived of same social status. We are of the considered view that the petitioner has made out case for conditional validity. We therefore pass following order.

O R D E R

- 1) The Writ Petition is partly allowed.

2) The impugned order is quashed and set aside. The respondent-scrutiny committee shall immediately issue certificate of validity to the petitioner of 'Koli Mahadev' scheduled tribe. It shall be subject to the final outcome of the matters which the committee has decided to reopen.

3) The petitioner shall not be entitled to claim any equities.

4) The learned A.G.P. in presence of the Law Officer of the committee, to communicate this decision to the committee immediately.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

bsb/Oct. 23