

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

Writ Petition No. 12707 of 2023

Sweety d/o Shivaji Dabbe

Age : 28 years, Occu.: Student,

R/o : Borul, Tq. Devni, Dist. Latur.

...Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary
Tribal Development Department,
Mantralaya, Mumbai.
 2. The Scheduled Tribe Certificate
Scrutiny Committee, Aurangabad Division,
Through its Vice Chairman, Aurangabad.
 3. The Maharashtra University of Health Sciences,
Nashik, Dindori Road, Mhasrul, Nashik,
Tq. & Dist. Nashik,
Through it's Registrar.
 4. The Dean/Principal,
Grant Government Medical College & Hospital
Byculla, Mumbai.
- ...Respondents**

Mr. Omgashad B. Boinwad, Advocate for the Petitioner.

Mr. S.G. Sangale, AGP for Respondent Nos. 1, 2 and 4/State.

Mr. Jayant R. Patil, Advocate for Respondent No.3.

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

DATE : 13 OCTOBER 2023.

FINAL ORDER [SHAILESH P. BRAHME, J.] :

. Heard the learned Counsel for the respective sides finally.

2. The petitioner is assailing the judgment and order dated 27.09.2023 passed by the respondent no.2/Scrutiny Committee, invalidating her tribe certificate of 'Koli Mahadev' scheduled tribe and confiscating it. The petitioner seeks reliance upon the validity certificate issued to her father Shivaji Pandurang Dabbe and the uncontraverted entry in school record of grandfather. It is submission of the petitioner that the Committee has committed patent illegality in discarding the validity certificate and the old entry. There is error of jurisdiction committed by the Committee in rejecting her caste claim .

3. Learned AGP would oppose the claim of the petitioner. He would submit that the Scrutiny Committee has rightly rejected the caste claim considering the contrary entries in the record of the close relatives of the petitioner. The validity certificate of the father of the petitioner is not reliable and based upon the extraneous consideration. He would further submit that there is no illegality committed by the Committee and it has taken a plausible and reasonable view.

4. Learned AGP has produced on record the original papers of the petitioner and her father. It is also informed that the Committee has intended to reopen the validity certificate issued to her father.

5. We have considered the submissions canvassed by both the sides. The petitioner is relying upon the genealogy which is at page no.43 as well as 53. The learned AGP has not disputed the genealogy. The petitioner's father Shivaji Pandurang Dabbe holds a

validity certificate. There was vigilance enquiry conducted in the matter of Shivaji. A report thereof is produced on record at Exhibit-D. The documents verified by the vigilance cell are enlisted at page no.50. Amongst other documents there is school record of Pandurang Laxman Dabbe of the year 1951. From the original papers, it can be seen that Shivaji was issued with validity certificate by reasoned order. We find that the validity certificate is issued after following due procedure of law. It should enure to the benefit of the petitioner.

6. The learned Counsel for the petitioner has drawn our attention to the school record of Pandurang Laxman Dabbe, grand father of the petitioner. It is of the year 1951. It is already verified in the matter of petitioner's father. It indicates caste as Koli Mahadev. The school record of the grandfather has a probative value and corroborates the claim of the petitioner. We find that the petitioner has made out a case for issuing validity certificate by incorporating certain conditions.

7. When selfsame record is already considered by the Committee, it is not open for the present Committee to arrive at a contrary finding. In that view of the matter, the finding recorded by the Committee for rejecting the caste claim of the petitioner is unsustainable.

8. The learned AGP has vehemently pointed out the contrary entries from the photocopies of the original papers. The old entry of grandfather is also pointed out from the coloured photocopy. He would submit that the old entry is not genuine and liable to be

discarded. As long as the validity certificate of the petitioner's father is intact, the petitioner cannot be denied the validity certificate. When the Scrutiny Committee has proposed to undertake a re-verification of validity certificate of the father, it is open for the Committee to conduct re-verification to find out element of fraud if any.

9. We find that the Scrutiny Committee should not have discarded validity certificate of the father of petitioner. The impugned judgment and order is unsustainable. We therefore, partly allow the writ petition by passing following order :

ORDER

- (i) The impugned judgment and order dated 27.09.2023 is quashed and set aside.
- (ii) The Committee shall immediately issue tribe validity certificate of 'Koli Mahadev' scheduled tribe, to the petitioner forthwith, which shall be subject to the result of re-verification undertaken by the Committee in the matter of her father.
- (iii) The petitioner shall not be entitled to claim equities.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]