

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

WRIT PETITION NO. 13118 OF 2023

- 1) Piyush s/o Ramprasad Devkate,
Age 18 years, Occ. Student.
- 2) Aditya s/o Ramprasad Devkate,
Age 24 years, Occ. Student,
Both r/o. Jijamatanagar, Hingoli,
Tq. & Dist. Hingoli.

... **Petitioners**

VERSUS

- 1) The State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya Mumbai-32.
- 2) The Scheduled Tribe Certificate
Verification Committee, Kinwat
Headquartered at Aurangaba,
Through its Member Secretary.

... **Respondents.**

...
Advocate for the Petitioners : Mr. S. M. Kulkarni h/f Mr. Boinwad Omgashad
B.

A.G.P. for the Respondents/State : Mr. S.G. Sangale

CORAM : **MANGESH S. PATIL &
NEERAJ P. DHOTE, JJ.**

DATE : **30.10.2023**

PER COURT :

The petitioners are challenging the common order of invalidation of their tribe claim of 'Koli Mahadev-29' scheduled tribe.

2. Considering the urgency, we have heard both the sides finally at the stage of admission.

3. Admittedly, the petitioners' father Ramprasad possesses certificate of

validity. The committee has refused to extend its benefit to the petitioner by observing that there was inconsistent school record of Ramprasad's father Shaligram Sakham Devkate wherein in one school record he was described as 'Koli Mahadev' whereas in other school, the entry was of 'Koli'. The committee observes that the school records were of the same period which was practically impossible and has entertained a doubt about its genuineness.

4. We have gone through the original file of Ramprasad. It is apparent that he has produced school, record of his father Shaligram issued by the Pratibha Niketan Primary School, Holi District Nanded wherein he was described as 'Koli Mahadev' and the date of admission is shown to be 17.06.1952 in the Montessori. The other school record is of Zilla Parishad Kendriya Primary School Kapadsingi Tq. Sengaon, Dist. Hingoli wherein Shaligram was admitted to the first standard on 11.07.1957 describing him to be belonging to 'Koli' caste. Apparently, the observation of the committee to disbelieve this record that it is for the same period is perverse and arbitrary. The first record is of 1952 when Shaligram was admitted to Montessori and the second record is of 1957 when he was admitted to first standard. Though the subsequent entry is 'Koli' the earlier one is 'Koli Mahadev'. Following the principles of appreciation of evidence laid down in the matter of **Anand Vs. Committee for Scrutiny and Verification of Tribe Claims and Ors; (2012) 1 SCC 113**, the older entry would prevail and would carry greater probative value. Consequently, the observation of the committee to doubt this first school entry is not legally sustainable.

5. The committee has then observed that the petitioner's father Ramprasad was not granted certificate of validity by assigning any reason. However, we have gone through the original file of Ramprasad wherein, it is apparent that the committee had resorted to vigilance enquiry. It referred to as many as seven documents. It was also observed that Ramprasad could successfully get through even the affinity test and only after satisfaction, for

the detailed reasons, his tribe certificate was validated. The observation of the present committee in the impugned order that he was granted certificate without assigning reasons is *ex facie* perverse and arbitrary.

6. Following the principles laid down in the matter of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others; 2023(2) Mh.L.J.785*** , since petitioners' father Ramprasad was granted certificate of validity by following due process of law, even if now the committee has decided to undertake a fresh scrutiny of his validity, till the time it does not take the matter to its logical end, the petitioners cannot be deprived of deriving the benefit.

7. The Writ Petition is partly allowed. The impugned order is quashed and set aside. The respondent-committee shall immediately issue tribe validity certificate to the petitioners as belonging to 'Koli Mahadev-29' scheduled tribe in the prescribed format without adding anything. The validity shall be subject to the final outcome of the matters which the committee has decided to re-open.

8. Learned A.G.P. to communicate this order immediately to the concerned committee.

9. The petitioners shall not be entitled to claim equities.

(NEERAJ P. DHOTE, J.)

(MANGESH S. PATIL, J.)

mkd/-