

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

WRIT PETITION NO. 2865 OF 2022

1. Vaishnavdevi d/o Kailas Udate	
2. Vishweshwar s/o Kailas Udate	
3. Kundandevi d/o Kailas Udate	
4. Vishnukant Kailas Udate	...Petitioners
Versus	
The State of Maharashtra and Others	...Respondents

WITH

WRIT PETITION NO. 14724 OF 2021

Kailas s/o Vishwanath Udate	...Petitioner
Versus	
The State of Maharashtra and Others	...Respondents

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Advocate for Petitioners in WP2865-2022 & 14724-2021 : Mr. Mahesh S.
Deshmukh h/f Mr. Vivek U. Jadhav
AGP for Respondents/State : Mr. A.S. Shinde

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WITH

WRIT PETITION NO. 3225 OF 2022

1. Siddhant Prabhakar Udate	
2. Prerna d/o Prabhakar Udate	...Petitioners
Versus	
The State of Maharashtra and Others	...Respondents

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Advocate for Petitioners : Mr. Sunil M. Vibhute
AGP for Respondents/State : Mr. A.S. Shinde

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

DATE : 08 AUGUST 2023

ORDER (Shailesh P. Brahme, J.) :

. Heard both the sides finally. Considering the urgency expressed by the petitioners, the matter is taken up for final adjudication at the admission stage.

2. The petitioners are challenging the common judgment dated 25.11.2021 passed by the respondent no.2/Scrutiny Committee, invalidating caste claim of the nine claimants and confiscating the caste certificate. Out of these nine claimants, seven have approached this Court by filing three distinct petitions. These three petitions are considered by common order.

3. For the sake of brevity, the papers of Writ Petition No.2865/2022 are referred to. The petitioners are related inter-se. The genealogy is placed on record at page no.34. There are nine of validity holders in the family of the petitioners, who are paternal side close relatives. List of the validity holders is on record at page no.115 of the impugned judgment. The validity certificates were issued by the Scrutiny Committee from 2007 to 2011. There was vigilance enquiry in the matter of first validity holder, Shrikant. It is submitted that when same set of record was considered at a different point of time by the Scrutiny Committee, the present Scrutiny Committee could not have taken contrary view.

4. The learned AGP supports in the impugned judgment and order. According to him, there was contrary entries indicating caste as Koli.

There is manipulation of record in case of Subhash, Dilipkumar and Shivprasad. The validity certificates are not reliable.

5. The learned AGP has informed that the Scrutiny Committee has undertaken re-verification of the validity holders. During the course of hearing, files of first validity holder Shrikant and that of Ram Udate, whose claim was invalidated by the Committee are produced on record for our perusal.

6. We have considered the rival submissions of the parties. Perused the original files of Shrikant and Ram. We find that there was vigilance enquiry in case of Shrikant. The report is at page no. 62. It is transpired from record that reasoned order was passed in his case for granting validity. The validity certificate appears to have been secured by following due procedure of law. It can be inure to the benefits of the petitioners.

7. Already the contrary entries and the manipulation of the school record was subject matter of the enquiry in the matters of different validity holders. While exercising writ jurisdiction, we cannot re-appreciate the material. It is more so when the Scrutiny Committee has taken decision of reconsideration of the validity holders. We are of the considered view that all the petitioners are entitled to conditional validity. The Scrutiny Committee committed perversity in discarding the validity certificate in view of law laid down by the Supreme Court in the

matter of **Maharashtra Adavasi Thakur Jamat Swarakshak Samiti vs. State of Maharashtra & others** reported in 2023(2) Mh.L.J.785.

8. We, therefore, dispose of the writ petitions by passing following order.

ORDER

- A. The writ petitions are partly allowed.
- B. The impugned order dated 25.11.2021 passed by the respondent no.2/Scrutiny Committee is quashed and set aside. The Scrutiny Committee shall immediately issue tribe validity certificates to the petitioners as belonging to 'Koli Mahadev' (Scheduled Tribe).
- C. It shall be subject to the decision/outcome in the matters to be reopened by the Committee of the validity holders.
- D. The certificates of validity shall be issued in the prescribed format without incorporating other conditions.
- E. The petitioners shall not be entitled to claim equities.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]