

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

**WRIT PETITION NO.13005 OF 2023**

- |                                |     |                    |
|--------------------------------|-----|--------------------|
| 1. Mahesh Pandharinath Rajle   |     |                    |
| 2. Parshant Pandharinath Rajle | ... | <b>PETITIONERS</b> |

**VERSUS**

- |                                                                                                                       |     |                    |
|-----------------------------------------------------------------------------------------------------------------------|-----|--------------------|
| 1. The State of Maharashtra<br>Tribal Development Department<br>through its Secretary, Mantralaya,<br>Mumbai-400 001. |     |                    |
| 2. Scheduled Tribe Certificate<br>Scrutiny Committee, Aurangabad<br>through its Member Secretary                      | ... | <b>RESPONDENTS</b> |

...

Advocate for petitioner : Mr. Phatale Sagar S.  
AGP for respondents/State : Mr. A.A. Jagatkar

...

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

**DATE : 18.10.2023**

**PER COURT : (SHAILESH P. BRAHME, J.)**

Heard both the sides finally.

2. The petitioners are challenging common judgment and order dated 12.09.2023 passed by the respondent – scrutiny committee invalidating tribe certificate of ‘Koli Mahadev’ and confiscating the certificates.

3. The petitioners seek to rely upon the validity certificates issued to father Pandharinath and real sister Pratibhatai. They are

relying upon the selfsame record which underwent scrutiny on the earlier occasions. Pertinently, the old Fasli record is also sought to be relied upon. The learned counsel submits that the validity certificates of father and sister were issued after following due procedure of law and would enure to the benefit of the petitioners. He submits that the scrutiny committee committed error of jurisdiction in rejecting the tribe claims of the petitioners.

4. Per contra the learned AGP would oppose the claim of the petitioners. According to him the scrutiny committee has rightly rejected the caste claim considering contrary entry in the school record of Tulsabai and the manipulation noticed in the school record of Salubai. The Committee is justified in discarding the validity certificates because they were procured by suppression of material facts. The learned AGP would also rely upon the contrary entry recorded in the school record of the father of the petitioners indicating caste as 'Kachari'. He would urge to dismiss the petition as no case is made out to grant validity certificates.

5. We have considered rival submissions of the parties. A reference is made to the genealogy which is at page No.46. It is evident from it that father Pandharinath and sister Pratibhatai are the validity holders. The learned counsel for the petitioner has placed reliance upon vigilance report conducted in case of Pratibhatai. The report which is at page No.30 shows that relevant record was taken into account while considering tribe claim of Pratibhatai. The list of the documents which is

at page No.35 shows that the contrary entries of Kachari in the school record of the father as well as old entry of 1965 recorded in the case of aunt Salubai were also considered by the scrutiny committee. It is relevant to notice that the old Fasli record of 1351 Fasli (1941 AD) was also verified by referring it to the concerned revenue officer. The learned Collector replied that the old document was issued from the concerned office. It was observed by the vigilance officer that the document was genuine and without any tampering.

6. After considering the record stated above by speaking order Pratibhatai was issued with a tribe certificate. The Fasli record as well as the contrary entries recorded in case of father were taken into account amongst other record. We find that the validity certificate issued to Pratibhatai was issued after following due procedure of law. It should enure to the benefit of the petitioners.

7. The learned counsel for the petitioners has also relied upon validity certificate issued to their father Pandharinath. There is no specific objection raised by the learned AGP for the validity certificate issued to father except that it was procured by suppressing contrary entries and manipulated entries. We are of the considered view that validity certificate of the father corroborates claim of the petitioners.

8. The old Fasli record is also considered by the scrutiny committee. Independently, the said document was referred for vigilance inquiry. On the basis of reply received from the office of the Collector the

Committee has come to conclusion that the record is not available and the genuineness could not be verified. Only for this reason the document is discarded. We find that this exercise done by the scrutiny committee is unwarranted and without jurisdiction. Once the selfsame record is verified on the earlier occasion, in the matter of Pratibhatai it is not open for the present successive scrutiny committee to conduct reverification. Besides that, the scrutiny committee has not referred to the remark received for the said document in the matter of Pratibhatai. We are of the considered view that the old Fasli document of 1941 is of pre-independence period and has greater probative value. It corroborates the claim of the petitioners.

9. The learned AGP has referred to the contrary entries record in the school record of father indicating the caste as Kachari. The said entry was already taken into account and the validity certificates were issued to Pratibhatai and Pandharinath. Another objection raised by AGP is in respect of the entry of the school record of Tulsabai of 1967. The record was also considered while issuing validity certificates to the relatives of the petitioners. It is not open for the scrutiny committee to arrive at the contrary conclusion in the present scrutiny.

10. We notice that the school record of Salubai indicating caste Mahadev Koli is of 1965 whereas school record of Tulsabai indicating caste as 'Koli is of 1967. If these two entries are compared then the entry of a earlier period would prevail. By applying the principles of

preponderance of probabilities, we find that the petitioners have made out a case for issuing validity of certificates on certain conditions.

11. Learned AGP has informed that the scrutiny has decided to conduct the reverification of the validity certificates already issued in the family. Unless the validity certificates are revoked, the petitioners cannot be deprived of the same social status. We find that the impugned judgment and order is unsustainable. The petitioners are also entitled to validity certificates on certain conditions.

12. We, therefore, pass the following order :

- i. The judgment and order dated 12.09.2023 passed by the respondent – Scrutiny Committee is quashed and set aside. The Scrutiny Committee shall immediately issue validity certificates to the petitioners of ‘Koli Mahadev’ scheduled tribe forthwith.
- ii. The validity certificates shall be subject to outcome of the re-verification proposed to be undertaken by the respondent – Scrutiny Committee.
- iii. The learned AGP to inform this order immediately to the concerned Scrutiny Committee.
- iv. The petitioners shall not be entitled to claim equities.
- v. The writ petition is partly allowed accordingly.

( SHAILESH P BRAHME, J.)

(MANGESH S. PATIL, J.)