

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

WRIT PETITION NO.8492 OF 2023

Sakshi Hari Gawli ... **PETITIONER**

VERSUS

1. The State of Maharashtra
through it's Secretary, Tribal Development
Department, Mantralaya, Mumbai-32.
 2. The Scheduled Tribe Certificate
Scrutiny Committee, Aurangabad
through its Deputy Director. (R)
 3. The Commissioner & Competent Authority,
State CET Cell, Maharashtra State
Mumbai (Controller of Admission Process)
8th Floor, New Excelsior Building
AK Marg, Fort, Mumbai-1
- ... **RESPONDENTS**

AND

WRIT PETITION NO.12850 OF 2022

Hari Shamrao Gawli ... **PETITIONER**

VERSUS

1. The State of Maharashtra
through it's Secretary, Tribal Development
Department, Mantralaya, Mumbai-32.
 2. The Scheduled Tribe Certificate
Scrutiny Committee, Aurangabad
through its Deputy Director. (R)
 3. The Project Officer,
Ekatmik Adivasi Vikas Prakalpa,
Taloda, Tq. Taloda, Dist. Nandurbar.
 4. The Additional Commissioner,
Adivasi Vibhag, Nashik Region,
Nashik, Tq. & Dist. Nashik
- ... **RESPONDENTS**

...

Advocate for Petitioner : Mr. Jadhavar Pratap V.
AGP for Respondents: Mrs. M.A. Deshpande

...

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

DATE : 07.08.2023

PER COURT :

Heard.

2. The petitioners are challenging the order passed by the scrutiny committee under Section 7(1) of the Maharashtra Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000, confiscating the cancelling their tribe certificate as belonging to “Koli Mahadev” schedule tribes. The learned advocate for the petitioners points out that the petitioner No.1’s paternal uncle Sandip has been granted validity certificate after following prescribed procedure and after undertaking a thorough inquiry. The petitioners are entitled to derive the benefit.

3. The learned AGP opposes the petition. She points out that there is a manipulation in the school record. The revenue record describes the petitioners’ ancestors as ‘Koli’ was concealed when Sandip obtained the validity. It amounts to fraud and the Committee has decided to reopen the validity. Since the validity granted to Sandip is vitiated by fraud, the petitioners’ cannot be granted validity.

4. True it is that fraud vitiates everything. The Committee has tried to demonstrate that there was a fraud when Sandip obtained validity certificate from the Committee. It is the matter which we consciously do not intend to undertake a scrutiny of. The reason being, already the Committee has decided to reopen the validity and has issued him a notice to show

cause. Considering the peculiar facts and circumstances, whether actually there was some fraud and the order in favour of Sandip stands vitiated because of such fraud is a matter which would be directly and substantially in issue before the Committee in his case. Any comment made by us in this matter is likely to have some bearing in that case which we want to avoid. Besides Sandip is not before us. We should avoid making any comment which would cause prejudice to his interest.

5. We are merely concerned with the fact that Sandip was granted validity by the then Committee by undertaking a Scrutiny in accordance with law. It is not the version of the Committee in the present order that no inquiry at all was conducted. If that be so, if and when the Committee is able to conclude that his validity stand vitiated by fraud, it could have a bearing on the petitioners' claim. The petitioners being ready to have a conditional validity, we see no reason to not to extend the benefit of the Sandip's validity to them.

6. The writ petitions are partly allowed. The impugned order is quashed and set aside. The committee shall immediately issue tribe validity certificate to the petitioners as belonging to '*Koli Mahadev*' scheduled tribe, which shall be subject to the decision to be taken by the committee in the reopened matters.

7. The respondent – Scrutiny Committee shall issue certificate of validity to the petitioners in the prescribed format without putting up any additional endorsement thereon.

8. Petitioners and their blood relations shall cooperate the Committee in early decision of the reopened matters.
9. The petitioners shall not be entitled to claim equities.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)