

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

WRIT PETITION NO. 13409 OF 2019

Mayur S/o Madhukar Kamble
Age : 23 years Occ. Education,
R/o Golegaon, Tq. Georai,
Dist. Beed. .. Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary,
Tribal Development Department
Mantralaya, Mumbai.
2. The Scheduled Tribe Caste Certificate
Verification Committee Aurangabad,
Through its Member Secretary,
Aurangabad.
3. The Principal,
Rajarambapu Institute of Technology,
RajaramNagar (Islampur),
Dist. Sangli. .. Respondents

Shri Sunil M. Vibhute, Advocate for the Petitioner.
Shri S. G. Sangle, A.G.P. for the Respondent Nos. 1 and 2.

**CORAM : MANGESH S. PATIL AND
SHAILESH P. BRAHME, JJ.
DATE : 08 AUGUST 2023.**

FINAL ORDER :

. Heard both sides. The petitioner is challenging the invalidation at the hands of the Scrutiny Committee, whereby his tribe certificate as belonging to 'Koli Mahadev' (Scheduled Tribe)

has been confiscated and cancelled.

2. Considering the fact that the petitioner has already completed Engineering graduation and aspiring to post graduation the matter is heard finally.

3. The petitioner has been relying upon the validities granted in favour of his father Madhukar Rambhau and paternal uncle Shivaji Rambhau. Though the petitioner has also sought to rely upon the validity of one Sarangdhar Murlidhar, stated to be distant paternal uncle and even though the learned advocate for the petitioner has also pointed out that this Court has also granted validity to Sarangdhar's daughter Ankita Sarandhar Kambale in Writ Petition No. 3157 of 2023 by order dated 21 April 2023, in view of serious objection being raised by the learned Assistant Government Pleader regarding the discrepancies in the genealogy being relied upon by the petitioner and the one referred to by Sarangdhar as can be found from the observations of this Court in paragraph No. 5 of the order in the Ankita's matter, the learned advocate for the petitioner submits that the petitioner will not be relying upon the validities of Sarangdhar and his daughter Ankita. It is to be noted that even in the matter of Ankita an attempt was made to rely upon the validity of the petitioner's father Madhukar and paternal uncle Shivaji, but like in the matter in hand even a statement was made therein that she will not be relying upon the validities of Madhukar and Shivaji.

4. Be that as it may, admittedly, the petitioner's father and paternal uncle have been issued with the validity certificates in the year 2003 and 2011 respectively. However, the Committee refuses to grant the benefit to the petitioner on that basis by observing that both of them had obtained validities by suppressing material facts and circumstances and giving misleading genealogy. The Committee has also expressed its intention to undertake a fresh scrutiny of the validity certificates issued to both of them. However, the learned A. G. P. on instructions submits that till date no notices have been issued to them. The impugned order was passed in the year 2018 and even the Committee has not been able to culminate its decision to reopen the enquiry to a logical end. In our considered view, the petitioner cannot be deprived of the benefits of the validities more so when there is no observation of the Committee that no enquiry was made or procedure was not followed as prescribed in the Rules when their cases were considered by the committee for validation. If that be so, the petitioner is entitled to derive the benefit of the judgment in the case of **Maharashtra Adivasi Thakur Jamat Swarakshak Samiti Vs. State of Maharashtra and others** reported in **2023 (2) Mh. L. J. 785**.

5. We are consciously avoiding to make any comment about the alleged fraud since same would be subject matter for consideration of the Committee in the matters to be reopened. The validity holders are not before us. We do not intend to cause any prejudice to them by making any observation regarding alleged

circumstance which according to the Committee would constitute fraud nor are we inclined to cause any influence in the matters to be reopened by making certain observations.

6. In view of the above, we pass following order.

ORDER

A. The writ petition is partly allowed.

B. The impugned order dated 02.08.2018 passed by the respondent No. 2/Committee is quashed and set aside. The Scrutiny Committee shall immediately issue tribe validity certificate to the petitioner as belonging to 'Koli Mahadev' (Scheduled Tribe).

C. Validity certificate shall be subject to the decision/out come in the matters to be reopened by the Committee in respect of petitioner's father and paternal uncle.

D. The certificate of validity shall be issued in the prescribed format without incorporating other conditions.

E. The petitioner shall not be entitled to claim equities.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]