

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

WRIT PETITION NO. 14197 OF 2023

1. Ku. Ambika d/o Madhukar Awale,
Age : 19 years, Occu. Education,
R/o. At Post : Shiradhon, Tq. Nilanga,
Dist. Latur.
2. Ku. Yashoda d/o Madhukar Awale,
Age : 17 years, Occu. Education,
Under Guardianship of her natural guardian and
father Madhukar s/o Vyankatrao Awale,
Age : 45 years, Occu. Agril., R/o. At Post : Shiradhon,
Tq. Nilanga, Dist. Latur. **...Petitioners**

Versus

1. The State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai.
2. The Scheduled Tribe Certificate
Verification Committee,
Kinwat Headquartered at Aurangabad,
through its Member Secretary. **...Respondents**

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Mr. S. M. Kulkarni h/f Mr. O. B. Boinwad – Advocate for the petitioners
Mr. S. G. Sangle – AGP for respondent/State

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**CORAM : MANGESH S. PATIL
AND
NEERAJ P. DHOTE, JJ.
DATED : 08TH NOVEMBER 2023**

JUDGMENT [Per : Neeraj P. Dhote, J.] :-

1. Rule. Rule made returnable forthwith. Heard finally with the consent of the parties and taken up for final disposal at the stage of admission. Perused the papers.

2. The Petitioners, who are siblings and pursuing their studies, claim to be belonging to 'Koli Mahadev-29' Scheduled Tribe. Their claim has been invalidated by respondent no. 2 – Scrutiny Committee by order dated 03.11.2023.

3. It is submitted by learned advocate for the Petitioners that the father and two cousins of the Petitioners are issued with the validity certificates towards 'Koli Mahadev-29' Scheduled Tribe and the Scrutiny Committee relying on the vigilance report, contrary entries in the records of the relatives of the Petitioners and also on the basis of place of residence and affinity, invalidated the tribe claim of the Petitioners. It is submitted that the impugned order is unsustainable in law and, therefore, the same be set aside with a direction to the Scrutiny Committee to issue tribe validity certificates to the Petitioners towards 'Koli Mahadev-29' Scheduled Tribe.

4. Learned AGP supported the impugned order. It is submitted that the initial validity in the family of the Petitioners is that of Indrajit Shankarrao Awale, which was issued on the basis of incomplete information. He submitted that the claim of the cousin brother of the Petitioners, namely, Prashant Madhav Awale, has been invalidated based on the inquiry, and challenge to his rejection is pending before this Court in Writ Petition No. 8506 of 2021. It is submitted that in the case of Mayur Indrajit Awale, the vigilance was conducted, though in the impugned order it is incorrectly mentioned

that the vigilance was not held. It is prayed that considering the factual aspects, the petition be dismissed.

5. Having heard both the sides and after perusing the papers, it is seen that the Committee considered the records of the relatives of the Petitioners, namely, Mayur Indrajit Awale and came to the conclusion that the correct information was not brought before the Committee at that point of time and considered the same as the main ground for invalidating the Petitioners' claim. However, undisputed fact remains that the Petitioners' father and two cousins are issued with the validity certificates for the same tribe claim after following the due process of law. There is also no dispute in respect of the genealogy. The other aspects viz. the affinity and the area restrictions are not sustainable in the light of the legal position. Though the Committee has decided to re-open the cases of the Petitioners' relatives granting validity, it is equally true that in view of settled legal position, till the said validities are intact, the Petitioners cannot be deprived of the validity towards the said claim.

6. In the backdrop of the above factual position and considering the principles laid down by the Hon'ble Supreme Court in the cases of **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra Ors.** reported in **2023 SCC Online SC 326**, **Palghat Jilla Thandan Samudhaya Samrakshna Samithi and Another Vs. State of Kerala and Anr.** reported in **(1994) 1 SCC 359**

and **Jaywant Dilip Pawar Vs. State of Maharashtra and Ors.** reported in **2018 (5) All MR 975**, the impugned order is quashed and set aside with a direction to the Scrutiny Committee to issue tribe validity certificates to the Petitioners as belonging to 'Koli Mahadev-29' Scheduled Tribe subject to the final outcome of the matters which the Committee has decided to re-open. Thus, we proceed to pass the following order :

ORDER

- 1) The Writ Petition is partly allowed.
 - 2) The impugned order is quashed and set aside. The respondent-scrutiny committee shall immediately issue certificates of validity to the petitioners of 'Koli Mahadev-29' scheduled tribe. Those shall be subject to the final outcome of the matters which the committee has decided to reopen.
 - 3) The petitioners shall not be entitled to claim any equities.
 - 4) The learned A.G.P. shall immediately communicate this order to the committee.
7. Rule made absolute in the aforesaid terms with no order as to costs.

[NEERAJ P. DHOTE]
JUDGE

[MANGESH S. PATIL]
JUDGE