

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

WRIT PETITION NO. 10756 OF 2023

Vaishnavi Anil Pawade

...Petitioner

Versus

1. The State Of Maharashtra

Through Secretary

Department of Tribal Development, Mumbai.

2. Scheduled Tribe Certificate Scrutiny Committee,

Scrutiny Committee,

Through its Member Secretary,

Nashik – 2.

...Respondents

...

Advocate for Petitioner : Mr. Chaudhari Deepak D

AGP for Respondents/State : Mr. A. A. Jagatkar

...

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

DATE : 26 SEPTEMBER 2023

FINAL ORDER (Shailesh P. Brahme J.) :

Heard both the sides finally.

1. Being aggrieved by the judgment and order dated 20.12.2022, invalidating tribe certificate of Koli Mahadev, the petitioner is filing this petition.

2. The petitioner seeks reliance upon old record of 1946 of Lakhpati Nanuji Pawade and validity certificate issued to uncle Bharat, aunt

Vaishali and brother Omkar. The old record was duly verified and corroborates the claim of the petitioner.

3. The learned AGP supports impugned judgment and order. He would submit that there are contrary entries of Khandu Koli of 1919, Anil Narayan Pawade, Bharat Pawade and Narayan Pawade. The Committee has arrived at plausible conclusion considering the old record.

4. The learned AGP has further relied upon the old record of Punja, Narayan, Sahebrao and Bhagwat. The validity certificates are not reliable because they were obtained by misrepresentation.

5. We have considered the rival submissions of the parties. The school record of Lakhpati Nanu Pawade of the year 1946 indicates caste as Madhav Koli. It was verified during the vigilance enquiry. This being record of pre-constitutional period has greater probative value. It can be relied upon.

6. The petitioner's uncle, aunt and real brother are issued with validity certificates, despite the contrary entries. Unless the validity certificates are revoked, petitioner cannot be deprived of the same social status. We find that the petitioner is entitled to validity certificate conditionally.

7. The learned AGP vehemently submits that the contrary entries are also of pre-constitutional period. We are informed that the Committee has proposed re-verification. It is open for the Scrutiny Committee to examine where there is element of fraud or not during the re-verification, but at this stage the petitioner cannot be deprived of the due social status.

8. We find that the Scrutiny Committee has committed an error of jurisdiction. The impugned judgment and order is not sustainable. We, therefore, pass the following order.

ORDER

(i) The writ petition is partly allowed. The impugned order is quashed and set aside.

(ii) The Scrutiny Committee shall immediately issue tribe validity certificate to the petitioner as belonging to “Koli Mahadev” scheduled tribe in the prescribed format without adding anything. The validity certificate shall be subject to the final outcome of the matters which the Committee has decided to reopen.

(iii) The learned AGP to communicate this order to the Committee immediately.

(iv) The validity holders shall cooperate with the Scrutiny Committee

in early decision of the reopened matters.

(v) The petitioner shall not be entitled to claim equities.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

Najeeb.