



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

WRIT PETITION NO.15191 OF 2023

Yogesh Jaidrath Gandhale

Age : 12 years, Occu : Education,

R/o. Choramba, Tq. Dharur,

Dist. Beed

Through father and Natural Guardian,

Jaidrath s/o. Dharmraj Gandhale

Age : 36 years, occu : Agri,

R/o. As above

.. Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralay, Mumbai

2. The Scheduled Tribe Caste Certificate
Verification Committee, Aurangabad,
Through its Dy. Director (R),
Dist. Aurangabad

3. The Sub Divisional Officer,
Majalgaon, Dist. Beed

.. Respondents

...

Mr. Sunil M. Vibhute, Advoate for the Petitioner

Mr. S. V. Hange, AGP for the Respondent / State.

...

CORAM : MANGESH S. PATIL
AND
NEERAJ P. DHOTE, JJ.

DATED : DECEMBER 12, 2023

PER COURT :

. Heard both the sides.

2. The petitioner is challenging the order dated 02.08.2022 passed by the respondent no.3 - competent authority refusing to issue him tribe certificate of 'Koli Mahadev' Scheduled Tribe and also the order dated 30.09.2022 passed by the respondent no.2 - Scrutiny Committee dismissing his appeal.

3. As can be noticed from both these orders, the petitioner has been relying upon the certificate of validity possessed by his cousin grandfather namely Shivaji Uddhav Gandhale. The competent authority has refused to rely upon it by referring to the observations of the Supreme Court in the matter of **Raju Ramsing Vasave vs Mahesh Deorao Bhivapurkar & Others, 2008 AIR SCW 6184**, which read thus:

“Opinion formed by the committee as regards the case of the near relative of the applicant is not wholly irrelevant, but at the same time only because by mistake or otherwise, a member of his family had been declared to be belonging to the scheduled Tribe the same by itself would not be conclusive in the nature so as to bind another committee while examining the case of other members of the family at some details. If it is found that in granting a certificate in favour of a member of the family at some details. If it is found that in granting a certificate in favour of a member of family, vital evidence had been ignored, it would be open to committee to arrive at a different finding.”

4. In our considered view, the reliance placed by the competent authority in the aforementioned observations of the Supreme Court is out of context. It has conveniently ignored the fact that even the Supreme Court has opined that in case a near relative of the

applicant possesses a certificate of validity that cannot be said to be wholly irrelevant. Conversely put, it would be a relevant fact.

5. The respondent no.2 - Scrutiny Committee has refused to extend the benefit of the validity of Shivaji Uddhav Gandhale on the ground that in the matter of Unmesh Yoganand Gandhale a notice to show cause has been issued to one Uddhav Shivaji Gandhale. Assuming that, the Committee wanted to say that it was Shivaji Uddhav Gandhale, but erroneously styled him as Uddhav Shivaji Gandhale, it is prima facie apparent that even Unmesh Yoganand Gandhale was held to be entitled to have a certificate of validity, albeit conditional upon the ultimate decision of the Committee in the matters which it had intended to reopen, by the order in Writ Petition No.1197 of 2022 passed on 16.02.2022.

6. Considering the aforementioned facts and circumstances, when ultimately petitioner's cousin grandfather possesses a certificate of the validity, he is entitled to have a tribe certificate of 'Koli Mahadev' Scheduled Tribe. Needless to state that any such certificate issued would be valid subject to the validation proceedings to be undertaken by the Scrutiny Committee, which would have every opportunity to examine petitioner's claim on all fours.

7. In light of the above, the following order is passed.

ORDER

- (i) The Writ Petition is allowed.
- (ii) The impugned orders are quashed and set aside.
- (iii) The respondent no.3 – competent authority shall issue a tribe certificate of 'Koli Mahadev' Scheduled Tribe to the petitioner within one week of passing of this order.

[NEERAJ P. DHOTE]
JUDGE

[MANGESH S. PATIL]
JUDGE