



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3878 OF 2021

1. ANJALI GANESH JADHAV
2. PRAVIN GANESH JADHAV
VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioners : Mr. S.M. Vibhute
AGP for Respondent Nos. 1 to 3 : Mr. P.S. Patil
Advocate for Respondent No. 4 : Mr. D.S. Mutalik
h/f. Mr. S.D. Joshi

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

Reserved on : 03 OCTOBER 2024
Pronounced on : 10 OCTOBER 2024

PER COURT [*Shailesh P. Brahme, J.*] :

Heard both the sides finally considering exigency in the matter.

2. The petitioners are challenging judgment and order dated 10.12.2020 passed by the Scrutiny Committee, confiscating and invalidating their tribe certificates of 'Koli Mahadev'. They are relying upon the validity of their father Ganesh and uncles Vikram and Asaram.

3. Learned counsel for the petitioners submits that Vikram was the first validity holder who was issued with validity certificate by following due procedure of law. Relying on his validity, petitioners' father and Asaram were issued with validity certificates. These validities would enure to the benefits of the

petitioners. Learned counsel would submit that the old record of Asaram of 05.07.1974 indicating caste as 'Koli Mahadev' is undisputed and it was duly verified in the matter of first validity holder and in case in hand also. There is no reason to discard this record which would prevail the other school entries traced out by Committee during vigilance.

4. It is further submitted that the incompatible school record of Vikram of 1981 and Ganesh of 1983 would not be an impediment because Asaram's old record of 1974 would prevail. It is submitted that unless the earlier validities are revoked, the petitioners cannot be deprived of same social status. The petitioners are ready to abide by the decision in the matter of *Shweta Balaji Isankar Versus State of Maharashtra and Others*, in Writ Petition No. 5611/2018.

5. Learned AGP opposes the submissions of the petitioners. He tenders on record original papers of earlier validity holders Vikram and Asaram. According to him, due enquiry was not conducted in the matter of Vikram. Vikram himself suppressed his school entry of Koli of 1981. Vikram could not get through the affinity test. It is, therefore, submitted that the Committee has decided to reopen the validities of Vikram, Asaram and Ganesh. He would submit that there is no old record available to corroborate the petitioners claim and therefore, the petitioners cannot succeed.

6. We have considered rival submissions of the parties. We have gone through the original papers of earlier validity holders.

7. The relationship of the petitioners with the earlier validity holders has not been disputed. Vikram was the first

validity holder, having validity of 13.03.2008. Asaram was issued with validity certificate on 12.04.2010 and Ganesh was issued with validity certificate on 19.06.2010. We have carefully examined the papers of Vikram.

8. In the matter of Vikram, vigilance inquiry was conducted. There was mix record which was verified in his matter. The oldest entry was that of Asaram of 05.07.1974 indicating caste as Mahadev Koli. Vikram also relied on his school entry of 1981. By a reasoned order, he was issued with a validity certificate. While issuing validity certificate, reliance was placed on validities of Vishnu Rambhau Kawale and Bharat Kishan Kokewar. However, it was candidly disclosed in the vigilance report that those persons were maternal side relatives. We find that apparently by following due procedure of law validity was issued to Vikram.

9. Our attention is adverted to incompatible school record of Vikram of 1981 and that of Ganesh of 1983. Vikram should have disclosed his old record of 1981 when his claim was under scrutiny. He, however, disclosed his favourable school entry of 1983 to procure the certificate. But simultaneously, it cannot be lost sight of that Asaram's record of older period of 1974 was verified and found to be genuine supporting his claim. Therefore, just because Vikram did not disclose his earlier entry of 1981 it cannot be a ground to castigate at this juncture that fraud was practised for procuring the certificate.

10. Learned AGP has vehemently argued that there is incompatible school record and tampering was also noticed. The Committee has already proceeded to undertake reverification. Till

the validity of Vikram, Asaram and Ganesh are intact, the petitioner's cannot be deprived of same social status. During the reverification, the incompatible school record or tampering of the record can be gone into. We are not convinced that there is glaring material on record for any suppression of material fact or fraud in the present proceeding.

11. It would be extraneous to castigate that the certificates of validities Vikram, Ganesh and Asaram were obtained by fraud behind their back. The petitioners are ready to face consequences as *Shweta Balaji Isankar* (supra). It is desirable to issue validities to them, conditionally. We, therefore, pass the following order :

ORDER

- i. Writ Petition is allowed partly.
- ii. Impugned judgment and order dated 10.12.2020 is quashed and set aside.
- iii. The respondent no. 2 – Scrutiny Committee shall immediately issue tribe validity certificates to the petitioners as belonging to 'Koli Mahadev' scheduled tribe in the prescribed format which shall be subject to outcome of reverification proposed by the Committee.
- iv. The petitioners shall not claim any equities.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]