



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

45 WRIT PETITION NO. 2948 OF 2020

SHRINATH NABHAJI KONDALWADE

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

AND

46 WRIT PETITION NO. 3041 OF 2020

SAINATH NABHAJI KONDALWADE

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. Vibhute Sunil M.
AGP for the Respondents/State : Mr. V.M. Chate

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

DATE : 12 AUGUST 2024

PER COURT :

. The petitioners are challenging the common order, they being siblings, passed by the respondent no.2/Committee, refusing to validate their Koli Mahadev schedule tribe certificates.

2. We have heard both the sides finally.

3. Learned advocate for the petitioners submits that the father of the petitioners was issued with certificate of validity by following due process of law. A vigilance inquiry was conducted and he was

issued with certificate of validity relying upon school record of petitioner's grandfather of the year 1951 and his own school record of 1971. He submits that though the Committee on re-verification in the petitioners' matters, has now reached a conclusion about their being some manipulation and forgery and has decided to undertake re-scrutiny of father's validity on the ground of fraud, till the time, his certificate of validity is not confiscated and cancelled, the petitioners cannot be denied the benefit to have a similar validity. They are ready to run the risk of facing the consequences contemplated in **Shweta Balaji Isankar Vs. the State of Maharashtra and Others**, in Writ Petition No.5611/2018.

4. Learned AGP would submit that the Committee on a fresh vigilance inquiry has precisely found out the manipulations and forgery of the school record duly certified by the headmaster. The Committee has reasons to undertake a fresh scrutiny of father's validity and has decided to issue him notice. Learned AGP would thus submit that since fraud vitiates every solemn act, the petitioners are not entitled to derive the benefit of father's validity obtained in such a fraudulent manner. She would also refer to the decision in the matter of **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and Ors.**, 2023 SCC Online SC 326.

5. We have considered the rival submissions and perused the original files of the petitioners as well as of their father.

6. As can be seen from original order passed in father's matter, the vigilance officer who had conducted inquiry, was satisfied with the school record of the petitioner's father and the grandfather. Even the present Committee in the order under challenge has alleged about he having perpetrated fraud. Fraud is a serious matter and will have to be determined by undertaking a thorough inquiry. Petitioners' father is not a party before us, we do not intend to make any comment on the circumstance pitted against him and relied upon by the Committee for justifying its inference regarding he having practiced fraud.

7. We are also aware about the parameters laid down by the Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti (supra), paragraph no.22 in respect of the claims of the blood relatives which are dependent upon the earlier validities.

8. The petitioner's father was granted certificate of validity by following due process of law. The vigilance inquiry was conducted and its original report is available in father's file. Even if the then vigilance officer's integrity has been doubted in the impugned judgment, that has no bearing on the petitioners' claims.

9. Pertinently, the research officers in the vigilance report submitted in father's matter, had expressly certified about the petitioner's father having succeeded in the affinity test.

10. In the light of above, till the time the Committee is able to recall the certificate of validity of petitioner's father, they cannot be made to wait.

11. The writ petitions are allowed partly. The impugned order is quashed and set aside.

12. The Scrutiny Committee shall immediately issue tribe validity certificates to the petitioners as belonging to 'Koli Mahadev' scheduled tribe. The validities shall be subject to the final outcome of the matters which the Committee has decided to re-open.

13. The petitioners shall not be entitled to claim equities.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

Najeeb..