



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

919 WRIT PETITION NO.4364 OF 2022

- 1 Pooja d/o Sitaram Sapkal,
Age 20 yrs., Occ. Education,
R/o Shivajinagar, Sillod,
Tq. Sillod, Dist. Aurangabad.
- 2 Sanjeevani d/o Sitaram Sapkal,
Age 27 yrs., Occ. Education,
R/o At & Post Sapkalwadi,
Tq. Sillod, Dist. Aurangabad.

... Petitioners

... **Versus** ...

- 1 The State of Maharashtra,
Through its Secretary,
Higher Education Department,
Mantralaya, Mumbai – 32.
- 2 The Scheduled Tribe Certificate
Verification Committee, Aurangabad,
Through its Member Secretary,
Aurangabad.
- 3 The Commissioner & Competent Authority,
Commissionerate of Common Entrance Test Cell,
Government of Maharashtra,
8th Floor, New Excelsior Building,
A.K. Naik Marg, Fort, Mumbai – 32.
(Deleted vide order dated 19.10.2023.)

... Respondents

...

Mr. O.B. Boinwad, Advocate for petitioners
Mr. N.S. Tekale, AGP for respondent Nos.1 and 2

...

**CORAM : SMT. VIBHA KANKANWADI &
S.G. CHAPALGAONKAR, JJ.**

DATE : 10th JANUARY, 2024

JUDGMENT : (PER : SMT. VIBHA KANKANWADI, J.)

1 Rule. Rule made returnable forthwith. Heard learned Advocates for the parties finally, by consent.

2 The petitioners claim belonging to “Koli Malhar” Scheduled Tribe has been invalidated by respondent No.2 – Committee by Judgment and order dated 04.02.2022, which has given rise to the present petition, wherein the petitioners invoked the constitutional powers of this Court under Article 226 of the Constitution of India.

3 The petitioners have contended that in fact respondent No.2 – Committee had validated the Tribe claim of the father of the petitioners on 29.12.2009, so also many blood relatives as well as distant relatives from the paternal side have been granted validity certificate, still the claim of the present petitioners has been rejected. The petitioners also contend that the

Tribe claim of their grandfather Daulatrao Yesuba Sapkal was granted on 27.10.1992, however, Tribe claim of Prakash Daulatrao Sapkal was invalidated by Scrutiny Committee, Nashik. It was challenged before this Court in writ petition which came to be allowed on 22.04.1997. The two cousins Pratik and Rutuja had also received Tribe Validity Certificate under the orders of this Court on 21.08.2019, another cousin Nilesh Sapkal also received the validity under the order of this Court on 12.02.2021. Under these circumstances, petitioners have claimed that the impugned order passed by respondent No.2 is illegal and deserves to be set aside.

4 Heard learned Advocate Mr. O.B. Boinwad for the petitioners and learned AGP Mr. N.S. Tekale for respondent Nos.1 and 2.

5 The learned Advocate for the petitioners have taken us through the documents and he also points out the recent two orders in Writ Petition No.11300 of 2023 dated 13.09.2023 and Writ Petition No.10547 of 2023 on 14.09.2023 passed by the coordinate Bench. In respect of those petitioners he submits that they appeared in the genealogy that has been given on page No.30.

6 Though the learned AGP would support strongly the impugned order stating that reasoned order has been given, but he fairly concedes that

several validity certificates have been given in the blood relations by this Court.

7 Taking into consideration the order passed by the coordinate Bench, we adopt the same reasons. The liberty has been given to the Scrutiny Committee that in case it seeks review of the order passed by this Court on 22.04.1997 in Writ Petition No.1665 of 1996, then it can take appropriate steps against the petitioners. As aforesaid, we follow the same course which was adopted by the earlier Benches. Hence, the following order.

ORDER

1 The writ petition is partly allowed.

2 The impugned order is quashed and set aside.

3 The Committee shall immediately issue tribe validity certificates to the petitioners as belonging to “Koli Malhar” Scheduled Tribe, which shall be subject to the decision to be taken by the Committee in the reopened matters.

4 The petitioners shall not be entitled to claim equities.

5 The liberty is granted to the Committee to take steps against the petitioners in case it seeks review of the order passed by this Court on 22.04.1997 in Writ Petition No.1665 of 1996.

6 Rule is made absolute in the aforesaid terms.

(S.G. CHAPALGAONKAR, J.)

(SMT. VIBHA KANKANWADI, J.)

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