



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

**2 WRIT PETITION NO. 6286 OF 2024
SHUBHAM DNYANESHWAR RAWALE**

VERSUS

**THE STATE OF MAHARASHTRA
THROUGH ITS SECRETARY AND OTHERS**

AND

**3 WRIT PETITION NO. 6306 OF 2024
VISHAL VIJAYKUMAR RAWALE**

VERSUS

THE STATE OF MAHARASHTRA

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Advocate for Petitioners : Mr. Jadhavar Pratap V.

AGP for Respondents/State in WP-6286/2024 : Mr. S.R.Yadav Lonikar

AGP for Respondents/State in WP-6306/2024 : Mr. V.M. Chate

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

DATE : 26 AUGUST 2024

PER COURT :

. Heard both the sides finally and perused the record.

2. The petitioners are cousins and putting up a challenge to similar orders passed by the respondent/Scrutiny Committee, refusing to validate their 'Koli Mahadev' scheduled tribe certificates.

3. Though the orders under challenge are separate, since apparently there is no dispute about the relationship of the petitioners *inter se* or their relationship with the same individuals who possess certificates of validity, we are disposing of these two petitions by this common order.

4. Learned advocate for the petitioners submits that the petitioners' distant blood relatives - Mandakini, Nandini and Jitendra were issued with certificates of validity as mentioned in both these impugned judgments and orders. The Committee is refusing to rely upon it and extend its benefit to the petitioners on the ground that those were obtained by resorting to suppression of fact and misrepresentation. Though the Committee has now decided to reopen the validities on the ground of fraud, the petitioners are ready to run the risk of facing the consequences contemplated in the matter of **Shweta Balaji Isankar Vs. the State of Maharashtra and Others**, in Writ Petition No.5611/2018 and may be issued with certificates of validity subject to the final outcome of the matters to be reopened by the Committee.

5. Learned advocate for the petitioners further submits that Mandakini was the first validity holder. She was issued with certificate of validity by a reasoned order after conducting vigilance inquiry. Since there is no dispute about relationship between the petitioners and Mandakini, petitioners are entitled to derive the benefit of observations in the matter of **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and Ors.**, 2023 SCC Online SC 326.

6. Learned AGP would strongly oppose both the petitions. He would submit that Mandakini was granted validity by a cyclostyled order and relying upon the validities of the relatives who were not

related to her by blood from paternal side. Those validity holders were the sons of her paternal aunt and since the caste would be inherited from father, the then Committee could not have extended its benefit to her. He would further submit that the present Committee has given sufficient reasons regarding its perception of Mandakini having practised fraud and it has decided to reopen her validity. The petitioners cannot be allowed to derive the benefit of fraud perpetrated by her.

7. We have considered the rival submissions and perused the record. Needless to state that fraud would vitiate every solemn act. The observation of the Committee regarding Mandakini having practised fraud will have to be taken to the logical end by following due process of law and by extending her an opportunity of being heard. Till the time her certificate of validity is not revoked, the petitioners cannot be denied the benefit particularly when they are ready to run the risk contemplated in the matter of Shweta Balaji Isankar (*supra*).

8. Independently, we have been made available the original file of Mandakini of Nashik Scrutiny Committee. Though the validity was granted to her *inter alia* on the basis of validities of the relatives who were not related to her by blood from paternal side, this was not the only reason for granting validity. Apparently, as is indicated in the order passed in her matter, the then Committee had even applied the affinity test based on the replies given by her to the questionnaire

during vigilance inquiry to test her affinity with Koli Mahadev claim and the Committee had pointedly remarked that she was having affinity towards the tribe. In absence of any observations in that respect in the order under challenge, in our considered view the petitioners cannot be denied the validities, obviously, conditionally.

9. The writ petitions are partly allowed. The impugned orders are quashed and set aside. The respondent/Committee shall immediately issue tribe validity certificates to the petitioners as belonging to 'Koli Mahadev' scheduled tribe in the prescribed format without adding anything. The validities shall be subject to the final outcome of the matters which the Committee has decided to re-open.

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

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

Najeeb..