



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

Writ Petition No. 6289 OF 2024

Tukaram s/o Ashok Magar,
Age 27 years, Occu. Student,
R/o: At Post. Khandgaon, Tq. Pathardi,
Dist. Ahmednagar.

...Petitioner

Versus

1. The State of Maharashtra,
Through its Principal Secretary,
Tribal Development Department,
Mantralaya, Mumbai-32.

2. The Deputy Director (Research)
Scheduled Tribe Certificate Verification
Committee, Nashik.

...Respondents

Mr. Chandrakant R. Thorat, Advocate for the Petitioner.

Mrs. Kalpalata Patil Bharaswadkar, AGP for Respondents/State.

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

DATE : 20 JULY 2024

FINAL ORDER [Per: Shailesh P. Brahme, J.] :

. Heard both the sides finally.

2. The petitioner's tribe certificate for scheduled tribe 'Koli Mahadev' has been invalidated and confiscated by the Scrutiny Committee vide judgment and order dated 07.04.2022 which brings the petitioner to this Court.

3. The petitioner seeks to rely on validity certificate issued to his brother - Deepak, second cousin - Jyoti, first cousin - Krushna Magar, Shivaji Magar, Dattatray Magar. Learned Counsel for the petitioner would submit that Jyoti Magar was issued with validity certificate after following due procedure of law. Only contrary entry of Babu Magar was also considered in her case. He would further submit that although certificate of Ajit Pralhad Magar was invalidated, Jyoti Magar was issued with validity certificate subsequently.

4. Per contra, learned AGP supports impugned judgment and order. She places on record original papers of Pradeep Magar. She would submit that a fraud is played by the petitioner in suppressing invalidity of Ajit. Consequential certificate of Deepak and Pradeep are also tainted. She would vehemently point out contrary entries of Ashok and Babu and manipulation in the school record of Mhatardev and Pralhad. It is being submitted that the petitioner is not entitled to validity considering the suppression and the fraud.

5. We have considered the rival submissions of the parties and also gone through the relevant record. The relationship of the petitioner with the validity holders, is not disputed. They are paternal side close relatives of the petitioner. We have considered vigilance report of Jyoti. Old record of Babu Magar and Mhatardev Magar was considered by the Vigilance Officer. Pertinently, her

claim was found to have affinity linkage with Koli Mahadev. The Scrutiny Committee granted her validity certificate by a reasoned order. Thereafter, Pradeep was also issued with validity certificate. In his case affinity test was found to be in his favour. Both these validity certificates of Jyoti and Pradeep would enure to the benefit of the petitioner. Though there was invalidation of Ajit, validity certificate was issued to Jyoti and thereafter to Pradeep and others. Invalidation of Ajit cannot operate as *res judicata*. Unless the validity certificates of Jyoti and Pradeep are revoked, there is no point in entertaining any submission of suppression and fraud.

6. Learned AGP strenuously points out contrary entries and alleged manipulated record. The selfsame record underwent scrutiny previously also. If according to the learned AGP there is fraud, the Scrutiny Committee would be at liberty to conduct re-verification of validity granted to Jyoti and Pradeep. The petitioner cannot be deprived of validity certificate just because Committee has proposed re-verification of Jyoti and Pradeep. We are of the considered view that the impugned judgment and order is unsustainable.

7. Learned AGP refers to the decision rendered in the matter of Deepak s/o Balaji Rodewad Vs. State of Maharashtra and Others, Writ Petition No.9274/2021. The fact situation in that case was altogether different. In that case, there was a pre-

constitutional record incompatible with the caste claim. It was also recorded that number of blood relatives of the petitioner had incompatible record. Such is not the case in the present matter. The contrary entry pressed into service was of 1963 in case of Babu and that of 1970 in case of Ashok. In the present case, there are thirteen validity holders to support the claim of the petitioner. The judgment cited by the learned AGP, is not applicable. We, therefore, pass following order :

ORDER

- i Writ petition is partly allowed.
- ii The impugned judgment and order dated 07.04.2022 passed by the respondent No.2/Scrutiny Committee is quashed and set aside.
- iii The respondent No.2/Scrutiny Committee shall issue certificate of validity to the petitioner as belonging to 'Koli Mahadev' Scheduled Tribe.
- iv The certificate of validity shall be subject to the outcome of re-verification proposed by the Scrutiny Committee.
- v The petitioner shall not be entitled to claim equities.

SHAILESH P. BRAHME
JUDGE

MANGESH S. PATIL
JUDGE

Noted..