



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

WRIT PETITION NO. 4527 OF 2024

Yogesh Vijay Sapkal .. Petitioner
Versus
The State of Maharashtra and another .. Respondents

Shri O. B. Boinwad, Advocate for the Petitioner.
Mrs. Kalpalata B. Patil Bharaswadkar, A.G.P. for the Respondent
Nos. 1 and 2.

**CORAM : MANGESH S. PATIL AND
SHAILESH P. BRAHME, JJ.
DATE : 12 JULY 2024.**

FINAL ORDER (Per Shailesh P. Brahme, J.) :-

. Heard both the sides finally considering need of the validity certificate to pursue further education.

2. This petition is directed against judgment and order dated 01.04.2024 passed by the respondent No. 2/Scrutiny Committee confiscating and invalidating his tribe certificate of 'Koli Malhar' (Scheduled Tribe). Petitioner relies on number of validity certificates of the paternal side relatives including his biological father Vijay and cousin uncle Prakash. It is submitted that Prakash Daulatrao Sapkal was issued with the validity certificate by the judgment and order dated 22 April 1997 passed by this Court in Writ Petition No. 1665 of 1996. This being the oldest validity, has been followed in number of matters of validity holders including that of Pratik, Rutuja, Nilesh, Umesh, Akshay, Pooja and Sanjivani, etc.

3. Learned counsel for the petitioner submits that the self same record pitted against the petitioner has been considered on number of occasions not only by the Scrutiny Committee, but the High Court while granting validity certificates to the relatives of the petitioner. Hence the petitioner is entitled for the validity certificate.

4. Learned Assistant Government Pleader would oppose the submissions of the petitioner. He would submit that Scrutiny Committee has rightly passed judgment of invalidation considering contrary entries and suppression of material facts. The scrutiny committee has decided to reopen cases of the validity holders who are relatives of the petitioners.

5. We have considered submissions and the relevant record. We have gone through the genealogy produced by the petitioner, which indicates number of validity holders in the family of the petitioner who are paternal side relatives. His own father was issued with the validity certificate. We have gone through the judgment of the Bombay High Court in the matter of Prakash Daulatrao Sapkal passed on 22.04.1997 in Writ Petition No. 1665 of 1996. Validity certificate of Prakash is the oldest one in the family which has been relied upon in the matters of subsequent validity holders.

6. Couple of orders passed by the High Court in the matter of such validity holders like Pooja Sitaram Sapkal, Sanjivani Sapkal are placed on record. If the petitioner is ready to run the risk in

view of the judgment of **Shweta Balaji Isankar Vs. The State of Maharashtra and others** judgment dated 27 July 2018 in **W. P. No. 5611 of 2018**, then validity certificate can be issued on certain conditions.

7. The validity certificates upon which reliance has been placed by the petitioner would enure to the benefit of the petitioner in view of the judgment of the Supreme Court in the matter of Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others reported in *2023 SCC Online SC 326*. We are of the considered view that the impugned judgment and order is unsustainable. We therefore pass following order.

O R D E R

- I. Writ petition is partly allowed.
- II. Impugned judgment and order dated 01.04.2023 passed by the respondent No. 2/Scrutiny Committee is quashed and set aside.
- III. The respondent No. 2/Scrutiny Committee shall issue validity certificate to the petitioner of 'Koli Malhar' (Scheduled Tribe) immediately. Same shall be subject to outcome of the decision of the proposed reverification.
- IV. The petitioner shall not be entitled to claim equity.

[SHAILESH P. BRAHME, J.] [MANGESH S. PATIL, J.]