



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

WRIT PETITION NO. 9442 OF 2023

Sachin Devraj Dhotre

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Shri Chandrakant R. Thorat, Advocate for the Petitioner.

Shri S. R. Yadav Lonikar, A.G.P. for the Respondent Nos. 1 and 2.

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

DATE : 23 AUGUST 2024.

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

. Heard both the sides finally considering urgency in the matter.

2. The petitioner is challenging judgment and order dated 11.08.2022 confiscating and invalidating his certificate of Koli Mahadev scheduled tribe. He relies on the validity certificates issued to his brother Rushikesh, sister Shilpa, father Devraj and uncle Yuvraj. On the ground of parity he claims that he is also entitled to certificate of validity. Learned counsel for the petitioner submits that after following due procedure of law Rushikesh was issued with the validity certificate which is further relied upon by other relatives of the petitioner. In case of Rushikesh contrary entries were also considered.

3. Per contra, learned Assistant Government Pleader supports impugned judgment and order. He has tendered original papers of the petitioner and first validity holder Rushikesh. He submits that during the course of vigilance enquiry, it transpired that school record of petitioner's grandfather Venkati, grandmother Prayag and father Devraj was found to be manipulated. This aspect was not considered when validity was issued to Rushikesh. In view of this subsequent vigilance report though Rushikesh and others were issued with the validity certificates, the committee is not bound to issue validity certificate to the petitioner. It is further informed that the committee has issued show cause notices to the earlier validity holders.

4. We have considered rival submissions of the parties and also gone through the original papers of the petitioner and first validity holder Rushikesh. Vigilance enquiry was conducted in the matter of Rushikesh. The contrary record of Devraj Venkatrao Dhotre – 1968, Bharatbai Venkatrao Dhotre - 1968 and Manubai Hulaji Dhotre - 1961 was considered by the Committee. Despite this incompatible school record, Rushikesh was issued with the validity certificate mainly considering the school record of Venkati Hula Dhontre – 1953, Prayag Hulaji Dhotre – 1953 and Sundarbai Hulaji Dhotre – 1953.

5. We have gone through the report of the enquiry officer dated 20.10.2008 prepared after verification of the school record of Venkat, Prayagbai and Sunderabai. This report only indicates

that there was validity issued to Ajay Ambadas Balwant, who is maternal side relative. There was no proper vigilance enquiry in respect of the above school entries. Ajay was maternal side relative.

6. In case of petitioner vigilance enquiry was conducted on two occasions. The report dated 22.12.2021 submitted by the vigilance officer indicates that in the school entry No. 51, name of Venkat Hulla was not found in the original school record and instead of that name of Babu Deoba was found. At Sr. No. 52 and 53 the names of Prayag and Sundarbai were found, but those were recorded by striking out earlier names. Therefore it was reported that the entries in the school register were tampered ones.

7. With the assistance of the learned A. G. P. we have gone through the coloured photo copies of the extract of the school register. At Sr. No. 51 name of Babu Deoba is found and in the column of date of birth 01.01.1945 is recorded. At Sr. No. 52 earlier name was scored out and Prayag is scribed, whose date of birth is recorded as 20.08.1944. At Sr. No. 53 Sunderabai is over written and her date of birth is shown as 14.04.1945. Considering the date of birth of Prayag and Sunderabai the entries become more suspicious. The record is *ex-facie* manipulated. This record was not available when Rushikesh was issued with the validity certificate. There was no due verification.

8. The report of enquiry dated 22.12.2021 was duly served on the petitioner and he tendered reply on 24.06.2022, which is not satisfactory.

9. *Prima facie*, we find that the relevant record was not considered while issuing validity to Rushikesh. The school record of Venkati, Prayag and Sunderabai is apparently manipulated. No benefit of such a validity can be given to the petitioner. Under these circumstances, we do not find that any jurisdictional error is committed by the committee. The committee has rightly arrived at the conclusion that the validity certificate of Rushikesh and others are liable to be discarded. In the writ jurisdiction we are not sitting in appeal and we do not find that any case is made out to cause interference in the impugned judgment and order.

9. We are not oblivious of the pronouncement 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*. The circumstances under which the validity of blood relative are described in para (22) and (23). If there is no proper enquiry there cannot be validation relying on such validity.

10. During the vigilance enquiry of the present petitioner the mischief of tampering of the record was noticed. We are of the considered view that the school record of Venkati, Prayag and Sunderabai amounts to fraud and reliance on the validity

certificate of Rushikesh and others would amount to perpetrating the fraud.

11. For the reasons stated above we are not inclined to grant any relief to the petitioner. The writ petition is dismissed.

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

bsb/Aug. 24