



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

WRIT PETITION NO. 7642 OF 2024

Dhanshri Sagar Zodge,
Age 21 years, Occ. Student
R/o Shastri Nagar, Chalisgaon,
Tq. Chalisgaon, Dist. Jalgaon.

...Petitioner

VERSUS

1. The State Of Maharashtra
Through Its Secretary
Department of Tribal Development,
Mantralaya, Mumbai – 32.

2. The Scheduled Tribe Certificate Scrutiny
Committee, Nandurbar,
Tq. and Dist. Nandurbar.
Through its Deputy Director (R).

3. The Scheduled Tribe Certificate
Scrutiny Committee, Dhule,
Tq. and Dist. Dhule,
Through its Deputy Director (R).

...Respondents

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Advocate for Petitioner : Mr. Jadhavar Pratap V.
Addl.GP for Respondents/State : Mr. A.R. Kale

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

DATE : 20 AUGUST 2024

PER COURT :

. Heard.

2. The petitioner is challenging the order passed by the

respondent no.2/Scrutiny Committee in a proceeding under Section 7 of the Maharashtra Act No.XXIII of 2001, confiscating and cancelling her Koli Mahadev scheduled tribe certificate. In the light of exigency being demonstrated, we have taken up the matter for final disposal at the admission stage.

3. Learned advocate of the petitioner submits that the petitioner's father and paternal uncle were granted certificates of validity by the then Committee by following due process of law by resorting to a vigilance inquiry and by a reasoned order. Irrespective of the observations of the Committee in petitioner's matter disclosing its intention to undertake re-verification of their validities, the petitioner should be issued with certificate of validity based on these earlier validities, conditionally.

4. He would further submit that simultaneously the petitioner's father also could get through the affinity test and that was one of the grounds on the basis of which he was held entitled to have a certificate of validity.

5. Lastly, learned advocate would submit that the contrary record and the observations in the vigilance inquiry report were controverted by a specific reply. The Committee could not assign any reason to overcome the stand being taken by the petitioner in the reply. The observations and the conclusions are based on surmises and conjectures and the impugned order be set aside and reversed.

6. Learned AGP would oppose the petition. He would submit that there are circumstances indicating the manner in which the certificates of validity were obtained by the petitioner's father and uncle, the Committee has formed a view about them having practised fraud and has decided to issue them show cause notices. The petitioner cannot be permitted to derive the benefit of the fraud perpetrated by her father and uncle.

7. The original file of petitioner's father is made available to us and we could go through it. Bearing in mind the parameters laid down in paragraph no.22 and 25 of the judgment in the matter of **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and Ors.**, 2023 SCC Online SC 326, it is conspicuous that the petitioner's father – Sagar was issued with certificate of validity by conducting a vigilance inquiry and by a reasoned order. Pertinently the Committee even went on to make the observations as to how and for what reasons it was of the view that Sagar could get through the affinity test successfully. More importantly, it has expressly mentioned that it was a general observation of the Committee that the caste entries in various old record of real 'Koli Mahadev' scheduled tribe people are also found as 'Koli'. If such was the reason assigned by the then Committee while holding petitioner's father entitled to have a certificate of validity, the petitioner is entitled to derive its benefit in the light of **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti** (supra).

8. Bearing in mind the observations of the Supreme Court in paragraph no.25 of Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti (supra), the affinity test has its own place and can be resorted to by the Committee, if it is not accepting the documents or the documents produced by the claimants are found to be not reliable. Since petitioner's father could get through the affinity test, it would not be appropriate for the present Committee to expect even her to get through the affinity test. It is not the law that every blood relative will have to, invariably, get through the affinity test, rather it should be converse. When the father could get through the affinity test successfully, it would not be appropriate to expect even the issues to undergo the same process, as if it was an examination.

9. Be that as it may, since petitioner's father possesses a certificate of validity, she is also entitled to have it subject to usual conditions.

10. The writ petition is partly allowed. The impugned order dated 16.12.2020 is quashed and set aside. The Committee shall issue certificate of validity of Koli Mahadev scheduled tribe to the petitioner immediately. The same shall be subject to the final outcome of the matters which the Committee has decided to re-open.

11. The petitioner shall not be entitled to claim equity.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]