



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.7483 OF 2024

1. Saeed Girish Yellambkar
 2. Shrushti Girish Yellambkar
 3. Anurag Prashant Yellambkar
 4. Aniket Avinash Yellambkar
 5. Utkarsha Ulhas Yellambkar
- ... PETITIONERS

VERSUS

1. The State of Maharashtra
through its Secretary,
Tribal Development Department
Mantralaya, Mumbai – 32
 2. The Scheduled Tribe Certificate Scrutiny
Committee, Chhatrapati Sambhajanagar,
Tq. & Dist. Chhatrapati Sambhajanagar,
through its Deputy Director (R)
- ... RESPONDENTS

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Advocate for petitioners : Mr. P.V. Jadhavar
AGP for Respondent/State : Mr. R.K. Ingole Patil

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

DATE : 07.08.2024

ORDER (PER : MANGESH S. PATIL, J.) :

We have heard both sides finally at the stage of admission.

2. The petitioners who are related by blood are challenging the common order, whereby, their 'Koli Mahadev' scheduled tribe claims have been discarded by respondent - Scrutiny Committee.

3. A bare look at the impugned order would demonstrate that

father of the petitioner Nos.1 and 2 Girish was issued with certificate of validity by the order passed by the Additional Commissioner, Tribal Department in an appeal on 20.10.1992. Since it was a decision in the appeal, which was then maintainable under the law existing at that time, in our considered view, the Committee could not have sought to take exception to his validity.

4. The Committee has sought to take exception to some of the subsequent validities, in an omnibus manner. It has observed that all the validity holders had obtained certificate of validity by concealing contrary record and has expressed its intention to resort to reverification of the validities on the ground of fraud and by referring to the decision in the matter of **Raju Ramsingh Vasave Vs. Mahesh Deorao Bhivapurkar;**(2008) 9 SCC 54, **Rajeshwar Baburao Bone Vs. The State of Maharashtra and Anr.;** AIR 2015 SC 3024 and **T. Vijendradas and Anr. Vs. M. Subramanian and Ors.;** (2007) 8 SCC 751.

5. Since Girish who is the father of petitioner Nos.1 and 2 was issued with certificate of validity by the order in appeal, as per the prevalent law, in our considered view, the parameters laid down in the matter of **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and Ors.;**2023 SCC Online SC 326, will have to be appropriately understood. It is not that the then committee or the authority had issued the certificate of validity so that the parameters laid down in **Maharashtra Adiwasi Thakur Jamat** (supra) could be applied.

The proposal was rejected by the authority. The order was challenged before the appellate forum and it is thereafter, by a reasoned order, the appeal was allowed. In view of such a state of affairs, irrespective of the intention expressed by the Committee to undertake re-scrutiny of all the validity holders, the petitioners cannot be denied the benefit of certificate of validity, more so when, as has been submitted by their learned advocate they are ready to run the risk contemplated in the matter of **Shweta Balaji Isankar Vs. State of Maharashtra and Ors.;WP No.6320/2017.**

6. The writ petition is partly allowed. The impugned order is quashed and set aside. The committee shall immediately issue certificates of validity to the petitioners of 'Koli Mahadev' scheduled tribe. Its validity would be subject to the final outcome of the matters of the validity holders to be reopened by the committee.

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

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE