



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

WRIT PETITION NO.7647 OF 2024

Sagar s/o Prabhu Sapkal

... **PETITIONER**

VERSUS

1. The State of Maharashtra,
through Principal Secretary
Ministry of Tribal Development,
Mantralaya, Mumbai – 32.

2. The Scheduled Tribe Certificate
Scrutiny Committee,
Aurangabad Division Aurangabad
(through its Joint Commissioner)

... **RESPONDENTS**

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Advocate for petitioner : Mr. Boinwad Omgashad B.

AGP for respondents/State : Mr. R.S. Wani

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CORAM

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

DATE

: 05.09.2024

ORDER (MANGESH S. PATIL, J.) :

The petitioner claims to be 'Koli Malhar' and is taking exception to the judgment and order of the Scrutiny Committee dated 30.04.2024 refusing to validate his tribe certificate. We have heard both the sides finally in the light of urgency.

2. As has been submitted by the learned AGP, the Committee has referred to a voluminous contrary school record of petitioner's blood relatives right from 1959 wherein they were described as 'Koli' and not as 'Koli Malhar'. However, simultaneously, the Committee admits the fact

that there are several validities in the family as well who have been issued certificates of validity by the respective committees right from the year 2000 onwards.

3. The petitioner's father possesses certificate of validity, his real paternal uncle Vijay and even his brother Sachin Kumar possess certificate of validity, apart from the many other comparatively distant relatives. The committee has observed that the validity holders including the petitioner's father and brother had resorted to fraud in obtaining certificates of validity, as a reason for refusing to extend the benefit of validity to the petitioner.

4. True it is that fraud would vitiate every solemn act but it is equally trite that it is a serious allegation and has to be proved to the hilt. The validity holders are not before us and we cannot undertake objective scrutiny of the inference of fraud drawn by the Committee, to their prejudice. It will have to be gone into and tested in an appropriate proceeding.

5. Once having seen that there are these many validity holders and were issued with certificates of validity by following due process of law, even if the Committee intends to take exception to these validities, the petitioner cannot be made to wait as it would be a long-drawn process. As it is, several of the petitioner's blood relatives have been held entitled to have certificates of validity by the orders of this Court which are as follows :

Sr. No.	Name of the parties	Writ petition number	Date of order
i.	Prakash s/o Daulatrao Sapkal Vs. The State of Maharashtra and others	WP No.1665/1996	22.04.1997
ii.	Pratik Kiran Sapkal and Rutuja Kiran Sapkal Vs. The State of Maharashtra	WP No.9164/2019	21.08.2019
iii.	Nilesh s/o Dilip Sapkal Vs. the State of Maharashtra and Ors.	WP No.2515/2021	12.02.2021
iv.	Umesh s/o Pandurang Sapkal Vs. The State of Maharashtra and others	WP No.8671/2023	03.08.2023
v.	Akshay s/o Kautik Sapkal Vs. The State of Maharashtra and others	WP No.8676/2023	03.08.2023
vi.	Ku. Kalyani d/o Harishchandra Sapkal and Jayram s/o Harishchandra Sapkal Vs. The State of Maharashtra and others	WP No.11300/2023	13.09.2023
vii	Pooja d/o Baburao Sapkal, Tushar s/o Baburao Sapkal Vs. The State of Maharashtra and others	WP No.10547/2023	14.09.2023
viii	Harishchandra Namdeo Sapkal Vs. The State of Maharashtra and others	WP No.13228/2023	25.10.2023
ix.	Pooja d/o Sitaram Sapkal Sanjeevani d/o Sitaram Sapkal Vs. The State of Maharashtra and others	WP No.4364/2022	10.01.2024

6. In view of the above the petition deserves to be allowed but partly.

7. The writ petition is partly allowed. The impunged order dated 30.04.2024 passed by the respondent No.2 - Scrutiny Committee is quashed and set aside. The Scrutiny Committee shall immediately issue

tribe validity certificate to the petitioner as belonging to 'Koli Malhar' scheduled tribe in the prescribed formate without adding anything. The validity shall be subject to the final outcome of the matters which the committee has decided to re-open.

8. The petitioner shall not be entitled to claim equities.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

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