



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

WRIT PETITION NO. 7719 OF 2024

Varsharani Vasant Ghante .. Petitioner

Versus

The State of Maharashtra and another .. Respondents

Shri Pratp V. Jadhavar, Advocate for the Petitioner.

Shri V. M. Jaware, A.G.P. for the Respondent Nos. 1 and 2.

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

DATE : 08 AUGUST, 2024.

FINAL ORDER :

. Heard both the sides finally.

2 Petitioner is challenging the order dated 31.05.2024 of invalidation of her Koli Mahadev scheduled tribe certificate.

3. Learned advocate for the petitioner submits that petitioner's father Vasant possesses certificate of validity, which was issued after following due procedure of law. Vigilance enquiry was conducted. Even pre-constitutional birth record of petitioner's grandfather Revansiddha of 1340 Fasali was verified and he was issued with certificate of validity by a reasoned order. He would submit that though the Committee is not ready to accept that validity so as to extend its benefit to the petitioner, the Committee will have to undertake a scrutiny to recall that validity and till that time the petitioner is entitled to have a certificate of validity.

4. Learned advocate would also point out that even a favourable school record of petitioner's grandfather of 1340 Fasali was scrutinized not only at the time of father's claim, but even in the petitioner's claim. The reasons assigned by the Committee to discard it are not sustainable. The petitioner is ready to face the consequences as contemplated in the matter of **Shweta Balaji Isankar Vs. The State of Maharashtra and others judgment dated 27 July 2018 in W. P. No. 5611 of 2018** and petitioner may be issued with the certificate of validity. He would also submit that apart from petitioner's father, there are few other validities in the family.

5. Per contra, learned Assistant Government Pleader would submit that father had obtained certificate of validity by practicing fraud. The genealogy prepared in the petitioner's matter under his signature does not tally with the genealogy furnished by him while obtaining certificate of validity. The person whose validity he was banking upon namely Vidyadhan is not traceable in the genealogy prepared in the petitioner's matter by the vigilance officer.

6. He would submit that there are several contrary entries wherein petitioner's family members have been described as Koli, which has been included in OBC, but which subsequently has been included in SBC. The learned A. G. P. would further submit that Committee has noticed that school record of petitioner's grandfather of 1340 Fasli was manipulated and word Mahadev

was inserted subsequently suffixing it to word Koli. The committee has referred to various circumstances to substantiate its inference about the validity holder having obtained validity by practicing fraud and its intention to reopen the validity.

7. We have carefully considered rival submissions and perused the papers including original files of petitioner as well as her father Vasant. We have no sufficient and cogent reason to discard the observations in the impugned order, whereby difference has been pointed out in the genealogy prepared under the signature of petitioner's father in the present matter and the one submitted by him while claiming validity.

8. However, it is equally important to note that like it was in the petitioner's father's matter, even in the present matter the school record of petitioner's grandfather Ravansiddh was verified by the vigilance officer, wherein while admitting in the school on 18.06.1947 his caste was described as Koli Mahadev. The Committee at the time of scrutiny of Vasant's matter had accepted this record as genuine one, but in the impugned order the present Committee has opined that word Mahadev has been suffixed subsequently in different ink. In order to verify such inference, we have carefully gone through the coloured photo copy available in the original file of the Committee in petitioner's case.

9. In our considered view, the manner in which words Koli Mahadev appear in the requisite column does not substantiate the inference being drawn by the Committee. We do not see any

difference in ink in the word Koli and that of Mahadev. Besides going by the alignment in respect of caste recorded in the caste column of preceding and succeeding entries clearly substantiate our inference in as much as, it does not appear that word Koli was written in the middle of the column and word Mahadev was added subsequently. In fact, word Koli does not start aligning with other caste name in preceeding and subsequent caste column entries.

10. Besides, if the self same entry was accepted by the earlier committee while considering claim of petitioner's father, it would be unending process if the succeeding Committees keep on drawing its own inferences in respect of self same record. We are of the firm view that this record of 1340 Fasli (1930 AD) would substantiate petitioner's claim of belonging to Koli Mahadev.

11. Irrespective of other circumstances being pointed out by the Committee attributing petitioner's father of having practiced fraud, this entry of pre-constitutional order would out weigh the subsequent contrary record as laid down in the matter of Aanand Dhananjay Nalawade Vs. The State of Maharashtra, 2014(4) Mh.L.J. 77.

12. Even if for the some reasons the Committee now intends to undertake reverification of the validity issued to Vasant, we cannot stop it in the present matter. Considering the fact that it would be a long drawn process, we cannot make the petitioner wait for final decision in the matter to be reopened.

13. In view of above state of affairs, the impugned order is unsustainable. The petitioner deserves to be issued with the validity certificate, subject to usual conditions. We, therefore, pass following order :

O R D E R

- a. The writ petition is partly allowed.
- b. Impugned order dated 31.05.2024 passed by the respondent No. 2/Scrutiny Committee is quashed and set aside to the extent of the petitioner.
- c. The respondent No. 2/Scrutiny Committee shall immediately issue certificate of validity to the petitioner of 'Koli Mahadev' (Scheduled Tribe) in prescribed proforma G without incorporating any conditions.
- d. Certificate of validity would be subject to the outcome of reverification to be undertaken by the Committee of the validity holders.
- e. Petitioner shall not be entitled to claim equities.

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

bsb/Aug. 24