



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.9151 OF 2023

Sanskruti D/o. Madhukar Sapkal,
Age: 20 years, Occu.: Education,
R/o. Sapkalwadi, Tal. Sillod,
District Aurangabad.

.. Petitioner

Versus

1. The State of Maharashtra
Through the Secretary to Social
Justice and Special Assistance
Department, Mantralaya, Mumbai-32.
2. The Scheduled Tribe Certificate
Scrutiny Committee, Aurangabad
Division, Aurangabad.
3. The Sub Divisional Officer,
Sillod, Tal. Sillod. Dist. Aurangabad.

.. Respondents

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Mr. R. R. Devakate, Advocate for the petitioner.
Mr. S. K. Shirse, AGP for respondent Nos.1 to 3 – State.

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**CORAM : SMT. VIBHA KANKANWADI AND
S. G. CHAPALGAONKAR, JJ.**

DATE : JANUARY 04, 2024.

JUDGMENT [Per Smt. Vibha Kankanwadi, J.] :-

. Rule. Rule made returnable forthwith. Heard learned Counsel for the
appearing parties finally by consent.

2. The petitioner – student challenges invalidation of her caste
certificate by respondent No.2 Committee by order dated 28.11.2022.

3. The petitioner contends that she belongs to Koli Malhar, which is a recognized Scheduled Tribe in State of Maharashtra. Respondent No.3, who is a competent authority under the Act of 2000, issued her certificate of the said tribe on 06.01.2015. The proposal for verification of the tribe certificate was sent to respondent No.2 through the Principal of her college. Respondent No.2 examined the claim on the basis of documentary evidence produced by her, however, it appears that without considering those documents in proper perspective, referred the claim to the Vigilance Cell for conducting inquiry. The vigilance cell gave its report on 08.06.2020, which does not contain any adverse remark, yet show cause notice was issued by respondent No.2 to remain present on 01.07.2020 and give reply to the inquiry report. Accordingly, she has given the reply, but still respondent No.2 invalidated her claim. Hence, this petition.

4. Heard learned Advocate Mr. R. R. Devakate for the petitioner and learned AGP Mr. S. K. Shirse for respondent Nos.1 to 3 – State.

5. It has been vehemently submitted on behalf of the petitioner that many real relatives of the informant including her father, cousin brothers, sisters have been given validity certificate, yet they have not been considered only on the ground that validity issued to one Daulat Yeshuba Sapkal, who is her cousin grandfather was declared as invalid, on 30.10.1991. It is now stated by the Committee that in spite of the fact that

Daulat's claim was invalidated, yet by suppressing the same, the other relatives have got the certificate invalidated. The school record of the cousin paternal uncles of the year 1973 has been discarded. No doubt, certain relatives record show the entry regarding their caste/tribe as Koli, but that does not mean that the petitioner does not belong to Koli Malhar. The impugned order is illegal.

6. Per contra, the learned APP strongly supported the reasons given by respondent No.2 and submitted that when in the year 1991 itself the claim of the tribe of his relative from the parental side was negated, yet it was bounden duty on the part of the other relatives to disclose about the invalidation, but suppressing the said fact, they have got the certificate issued in their favour and, therefore, the committee was justified in discarding those validity certificates.

7. At the outset, we have taken a note of the fact that caste/tribe claim of Daulat Yeshuba Sapkal is stated to have been negated on 30.10.1991, but thereafter since 2003 onwards in all 15 near relatives including the father of the present petitioner have been given the validity certificate. It cannot be stated that the committee has come to know about the invalidation now. We presume that even at the time of granting validity certificates to the 15 persons, the committee had the power to call for the vigilance report and it could have been then revealed that such invalidation

was suffered by one of the blood relative. No action has been taken in respect of those 15 persons. The list of in all 16 persons has been given in the impugned judgment, out of which only one i.e. Sr. No.1 Daulat Yeshuba Sapkal had suffered invalidation. We further wonder that how the validity certificate granted to other 15 persons can be so discarded by saying that the others had obtained it by suppressing the invalidation claim of Sr. No.1 Daulat as member of Scheduled Tribe. We are bound to observe now after considering many matters that it appears that the respondent No.2 Committee tries to review either its own order or the coordinate committee on the basis of the files which are available with it. This is totally wrong. Such abrupt alleged use of power would be just to negative the claim, which is not the aim and object with which the committees are established. As regards the vigilance report is concerned, it is to be noted that it is vague i.e. how there is entry as Malhar Koli in respect of certain relatives. It was found that there are some erasers or insertions and the customs are not matching. The vigilance report is totally silent that it was found by the Vigilance Cell that Daulat's tribe was negatived in 1991. The show cause notice is also silent and respondent No.2 Committee has not called upon the petitioner to explain regarding the same. Even if for the sake of arguments it is accepted that Daulat had failed to prove his claim that he belongs to Koli Malhar Tribe, that does not mean that he is not of that tribe, but thereafter 15 persons, who are the close relatives including the father

of the petitioner, successfully established that they are Koli Malhar. The validity certificate was issued to the father of the petitioner on 21.10.2011. Further, even when it is stated in the judgment that those 15 persons have obtained the validity certificates by suppressing the fact that Daulat's claim was invalidated, absolutely no action has been taken. We confirmed it from the learned AGP that even after the pronouncement of the impugned order on 28.11.2022 thereafter no action has been taken. When the father has been given validity certificate by the same committee, it was not necessary for the same committee even to call for the vigilance report. The subsequent proceeding by a close relative cannot be utilized by the committee to filling up the lacuna or filling up of the procedure which was in fact required to be adopted at the initial stage itself. Such approach on the part of respondent No.2 unnecessarily puts the citizens in expenses to be incurred in the litigation. Therefore, case is made out for exercising of constitutional powers by this Court. Hence, the following order :-

ORDER

- I) The Writ Petition stands allowed in terms of prayer clauses C, D and E.
- II) Rule is made absolute in the above terms.

[S. G. CHAPALGAONKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm