



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

WRIT PETITION NO. 9866 OF 2019

SWATI MOHAN GHAINWAD

VERSUS

**SCHEDULED TRIBE CERTIFICATE SCRUTINY COMMITTEE
THROUGH MEMBER SECRETARY AND OTHERS**

...

Advocate for the Petitioner : Mr. Yogesh B. Bolkar h/f Mr. Phatale Sagar S.

AGP for Respondents/State : Mr. N.S. Tekale

Advocate for Respondent No.2 : Mr. C.A. Jadhav

...

**CORAM : S. G. MEHARE AND
SHAILESH P. BRAHME, JJ.**

DATE : 25th NOVEMBER 2024

PER COURT :

. Heard both the sides considering exigency in the matter, it is taken for hearing finally.

2. The petitioner has challenged judgment and order passed by the respondent no.1/Scrutiny Committee, confiscating and invalidating the tribe certificate of the petitioner for Koli Mahadev scheduled tribe.

3. The petitioner was relying on validity certificate issued to her father Mohan, old entry of her grandfather of 1953 and that of Balaji her uncle of 1977.

4. Learned Counsel for the petitioner submits that the petitioner's father was issued with validity certificate after following due procedure of law and the same is intact and therefore on parity, she is entitled to validity. He further submits that there was old record of 1953 of grandfather and of 1977 of her uncle disclosing the tribe as Koli Mahadev. These old entries were already verified during vigilance inquiry of her father. The old entries would corroborate the her claim. Learned Counsel further submits that the Scrutiny Committee committed error of jurisdiction in discarding validity of her father because in his case vigilance inquiry was conducted and despite his earlier invalidity, validity was issued by the Committee. Learned Counsel for the petitioner relies on the judgment in the matter of **Sakshi Madhav Gandapwad Vs. State of Maharashtra and Another** in Writ Petition No.9362/2023 with connected matter.

5. Learned AGP supports the impugned judgment and order. He tenders on record the original papers of the petitioner and old file of her father, wherein his tribe certificate was invalidated on earlier occasion.

6. Learned AGP submits that petitioner's father's tribe certificate was invalidated vide order dated 11.01.1988. Suppressing the invalidation, he obtained validity certificate which is fraud apparent on the face of record. For that purpose he relies on the judgment in the matter of **Chaitanya d/o Sanjay Palekar Vs. State of Maharashtra and Others** in Writ Petition No.8531/2022. He further submits that

the petitioner has not denied the relationship with the persons whose incompatible school record was pitted against the petitioner. In the absence of the validity of her father there is nothing on record to corroborate the claim. It is further submitted that a statement of the headmaster was recorded in respect of school entry of petitioner's grandfather, of 1953. He also adverts our attention to the statement of petitioner's grandfather recorded in validation proceeding of her father to indicate that he was not educated. Learned AGP would submit that the Committee has taken reasonable and possible view and no interference is called for.

7. We have considered rival submissions of the parties. We have also gone through the relevant papers from the files tendered on record.

8. The petitioner is relying on validity certificate of her father and two old entries of grandfather and uncle. Undisputedly, the petitioner's father's tribe certificate of 1973 issued by Tahaslider, Mukhed was invalidated by the Scrutiny Committee on 11.01.1988. The said judgment and order was not challenged. Thereafter the petitioner's father procured new tribe certificate from Tahaslidar Mukhed on 17.07.1991. The said certificate was the subject matter of the validation proceeding before the Committee.

9. The vigilance was conducted in case of petitioner's father and few school entries were considered. After considering the vigilance

report, he was issued with validity certificate. There is nothing on record to indicate that earlier invalidation was disclosed. It was the duty of the petitioner's father to disclose earlier invalidation. Neither there is any circumstance to indicate as to how he could obtain new tribe certificate on 17.07.1991. We find that this is a fraud on the face of the record.

10. In this regard, learned Counsel for the petitioner has relied on the judgment in the matter of Sakhshi Madhav Gandapwad (supra). We have gone through the judgment. In that case, the allegation was that petitioner had suppressed invalidation of one Shivraj. Shivraj was not the father of the petitioner/claimant. The case at hand shows that father of the petitioner has suppressed his own record of invalidation. The facts of the present case are different and the judgment cited by the petitioner cannot be applied.

11. Learned AGP simultaneously has relied on the judgment in the matter of Chaitanya (supra). He adverts our attention to following paragraphs :

12. We find that in a case before the coordinate bench, there was suppression of invalidation of the father. The same is the fact in the present case. We are of the considered opinion that granting validity to petitioner on the basis of validity of her father would amount of perpetuation of fraud.

13. While conducting vigilance in the present matter, the incompatible school record of petitioner's father and uncle was pitted against the petitioner. We have gone through the reply submitted by the petitioner on 10.04.2019 to the vigilance report. The relationship has not been disputed. There is no explanation regarding entry Koli recorded against blood relatives from 1962 to 1973. The Committee has rightly considered these circumstances against the petitioner for rejecting her tribe claim.

14. The petitioner heavily relied on school entry of her grandfather Laxman of 1953. During the course of vigilance it was recorded that due verification could not be made because original school register was sent to the High Court. In that regard, from the original papers, learned AGP has pointed out the statement of headmaster of school at Mukhed. It reveals from it that only register no.1 was sent to High Court. From register no.2 the entry no. 148/383 which was purportedly of Laxman was verified and it was noticed that some different student's name was appearing in the entry. Besides that our attention is also invited to the statement of the petitioner's grandfather dated 11.01.1988 recorded in the proceeding conducted in respect of her father. In that statement, Laxman had clearly admitted that he had not taken any education. If this is the fact then the entry of Laxman of 1993 is doubtful. No reliance can be placed upon it and it is rightly discarded by the Scrutiny Committee.

15. We do not find that there is any perversity or patent illegality

in recording the finding against the petitioner. The Committee is justified in rejecting tribe claim. We are not exercising appellate jurisdiction. We find that there is no merit in the petition. The petition is dismissed.

[SHAILESH P. BRAHME, J.]

[S. G. MEHARE, J.]

Najeeb.