



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO. 8668 OF 2024
VIJAY UTTAM BOYANE
VERSUS
STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND ANOTHER
AND
WRIT PETITION NO. 8675 OF 2024
AJAY UTTAM BOYANE
VERSUS
STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND ANOTHER
...
Advocate for Petitioners : Mr. Jadhavar Pratap V.
AGP for Respondents/State : Mr. S.R. Yadav Lonikar
...
CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.
DATE : 14 AUGUST 2024

PER COURT :

1. Heard. Issue notice for final disposal to the respondents. Learned AGP waives service for respondents in both the petitions. Leave granted to correct the first name in Writ Petition No.8675/2024.

2. At the joint request of the parties, considering the urgency being demonstrated for taking admission in the current admission process, the matters are heard finally today itself.

3. The learned advocate for the petitioners submits that by separate orders, petitioners' tribe certificates of Koli Mahadev scheduled tribe, have been confiscated and cancelled by the impugned orders. He would submit that the petitioners' real sister –

Jayshree was granted certificate of validity by following due process of law. A vigilance inquiry was conducted. Father's school record of 1955 was accepted and she was held to be entitled to have a certificate of validity by passing a reasoned order. The petitioners are entitled to derive the benefit of that validity. Even if the Committee has now decided to reopen Jayshree's validity, till the time it is not recalled, the petitioners cannot be deprived of having the benefit of reservation. They are ready to run the risk as contemplated in **Shweta Balaji Isankar Vs. The State of Maharashtra and Others**, in Writ Petition No.5611/2018 and the certificates be issued to them.

4. Learned AGP opposes both the petitions. He submits that the Committee has found sufficient reasons to refuse to extend the benefit of Jayshree's validity. There is consistent contrary record wherein petitioners' blood relatives have been described as 'Hindu Koli'. All such contrary record was concealed by Jayshree while obtaining the certificate of validity. Even in their reply to the vigilance report conducted in the present matter, they have not disputed being relatives of the individuals whose contrary record was collected during vigilance inquiry and expressly referred to in the impugned judgments and orders. He would, therefore, submit that there are sufficient reasons for the Committee to take steps for recalling validity of Jayshree and the process would be undertaken.

5. We have been made available the original file of Jayshree. A vigilance inquiry was conducted. School record was collected, the

oldest being that of father – Uttam of the year 1955, wherein he was described as Koli Mahadev. Even the affinity test was applied. She could get through it successfully. By a reasoned order she was granted a certificate of validity. Since all the parameters contemplated in the **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and Ors.**, 2023 SCC Online SC 326, stand fulfilled. Irrespective of the decision of the Committee now to reopen validity of Jayshree, the petitioners would be entitled to have certificates of validity, more so when they are ready to face the consequences contemplated in Shweta Balaji Isankar (supra).

6. Since Jayshree is not before us, we deem it appropriate not to undertake any scrutiny of the circumstances which the Committee has referred to form a view about she having practised fraud.

7. The writ petitions are partly allowed. The impugned orders are quashed and set aside. The respondent/ Committee shall immediately issue tribe validity certificates to the petitioners as belonging to 'Koli Mahadev' scheduled tribe in the prescribed format without adding anything. The validities shall be subject to the final outcome of the matters which the Committee has decided to re-open.

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

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]