



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9808 OF 2023

1] Saksham Balaji Koyalwar
Age : 22 years, Occu. Student,
R/o. Gawatgaon, Tq. Degloor,
Dist. Nanded

2] Sakshata Balaji Koyalwar
Age : 19 years, Occu. Student,
R/o. Gawatgaon, Tq. Degloor,
Dist. Nanded

.. Petitioners

Versus

The State of Maharashtra
Through its Secretary,
Tribal Department,
Mantralaya, Mumbai – 32 and another

.. Respondents

...
Advocate for petitioner : Mr. Pratap V. Jadhavar
AGP for the respondent – State : Mr. R.S. Wani
...

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

DATE : 11 OCTOBER 2024

ORDER (MANGESH S. PATIL, J.) :

We have heard both the sides and perused the papers.

2. The petitioners who are siblings, are challenging the common judgment and order of respondent no. 2 - scrutiny committee refusing to validate their 'Rajgond' scheduled tribe certificates.

3. As is noted by the committee, petitioner's father - Balaji and cousin uncle – Ramesh Jalram Koyalwar possess certificates of validity. Irrespective of the observation of the committee alleging about they having practised fraud, till the time their validity certificates are not successfully recalled by the committee by following due process of law, those would hold the field and the petitioners would be entitled to derive the benefit.

4. Independently, the committee has been relying on couple of contrary entries of petitioners' paternal aunt - Gangamani Dakagod Koyalwar of 14-09-1968 and uncle Bharat Dakagod Koyalwad of 28-07-1980, wherein they were described in the school record as belonging to caste 'Kalal' and 'Gond', respectively. However, there is an older school record of petitioner's grandfather - Dakagod Iragod of 1354 *Fasli* (1944 A.D.) of Zilla Parishad High School, Jahur, Taluka – Mukhed, wherein he was described in caste column as 'Rajgond'.

5. It is pertinent to note that the committee is taking exception to this school record of Dakagod Iragod with the observation that the original school record is in Urdu and the word 'Rajgod' has been written in a different ink and handwriting. When we put a query to the learned AGP, as to if the members of the committee or the vigilance officer were knowing Urdu language and script, we were informed that it was

not the case. If at all a person is not knowing a language and the script, one wonders as to how the vigilance officer and the committee could have been able to make out as to how the handwriting of word 'Rajgond' was different than the rest of the entries.

6. As is pointed out by the learned AGP, the vigilance officer could get this extract of the school record in Urdu, translated from one advocate and which translation is available in the original file of the committee. Even in that translation, there is no observation about difference in the handwriting of rest of the entries and the word 'Rajgond' in the caste column. It appears that it is only in the certified translated extract issued by the then headmaster that a remark has been put about the difference in the ink and the handwriting. Again, unless it can be demonstrated that the headmaster who issued this certified copy, was knowing Urdu so as to identify the difference in the handwriting, the observation of the headmaster, vigilance officer and the committee in the impugned judgment and order, to take exception to this oldest record of pre-constitutional period based on surmises and conjectures, is clearly perverse and arbitrary. Such a misreading has resulted in discarding the oldest favourable record demonstrating that the petitioner's grandfather was described as 'Rajgond' in the caste column while admitting to the school.

7. In the light of above, even if the committee has decided to undertake fresh scrutiny of the validity of petitioner's father - Balaji, the petitioners are entitled to derive the benefit of his validity till the time it is not recalled successfully by following due process of law.
8. The writ petition is partly allowed.
9. The impugned order is quashed and set aside.
10. The respondent - committee shall immediately issue tribe validity certificates to the petitioners as belonging to 'Rajgond' scheduled tribe. The validities shall be co-terminus with the validities of earlier validity holders.
11. The petitioners shall not claim equities.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/