



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

WRIT PETITION NO.9038 OF 2024

1. Pankaj s/o Dilip Zudape
 2. Dhiraj s/o Dilip Zudape
- ... **PETITIONERS**

VERSUS

1. The State of Maharashtra
through Secretary,
Department of Tribal Development
Mantralaya, Mumbai - 32
 2. Scheduled Tribe Certificate
Scrutiny Committee, Kinwat,
Head Office Chhatrapati Sambhajanagar,
through its Member Secretary
- ... **RESPONDENTS**

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Advocate for petitioners : Mr. Deepak D. Choudhari
AGP for Respondent/State : Mr. V.M. Chate

...

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

DATE : 26.08.2024

ORDER (PER : MANGESH S. PATIL, J.) :

The petitioners who claim to be belonging to 'Koli Mahadev' scheduled tribe are challenging the order of the respondent No.2 – Scrutiny Committee refusing to validate their tribe certificates in a proceeding under Section 7 of the Maharashtra Act XXIII of 2001.

2. Learned advocate for the petitioners submits that they are real brothers and seek to derive the benefit of certificate of validity possessed by their father Dilip. In light of exigency, inasmuch as, they

intend to secure admissions through the Centralized Admission Process in the current academic year, they are ready to run the risk of facing the consequences contemplated in **Shweta Balaji Isankar Vs. State of Maharashtra and Ors.**;WP No.6320/2017 and may be issued with certificates of validity conditionally, as the Committee has decided to reopen father's validity with the allegations about he having resorted to fraud.

3. The learned advocate for the petitioners would submit that independently, the petitioners' grandfather while being admitted to a school was described as 'Koli Mahadev' in the school record on 01.07.1955. This old record was a subject matter of the vigilance inquiry conducted in the matter of petitioners' father Dilip. The then Committee did not entertain any doubt about it and the Committee by following due process of law and by a reasoned order issued certificate of validity to him. The petitioners are entitled to derive its benefit and the Committee cannot now resile from the inference drawn by the then Committee while holding Dilip to be entitled to have a certificate of validity.

4. Per contra, the learned AGP would oppose the petition. He would submit that petitioners' father Dilip could derive the benefit of so called school entry of his father which during the course of present inquiry turned out to be forged and fabricated one. The Committee has rightly decided to undertake fresh scrutiny of Dilip's validity. The petitioners cannot be allowed to derive the benefit of fraud practised by

their father.

5. We have considered the rival submissions and perused the papers. Even the original file in the matter of petitioners' father Dilip is made available to us.

6. Irrespective of the inference deduced by the present Committee in the petitioners' matter, about Dilip having practised fraud while obtaining the certificate of validity, in our considered view, since this is a serious allegation which requires to be founded on the basis of a conclusion drawn after a full fledged inquiry into the allegation, till the time such inference is taken to the logical end, the petitioners cannot be refused the benefit of father's validity.

7. We do not intend to make any comment on this aspect of the matter and even the power of the committee to undertake a review and the facts which according to the committee constitute fraud or misrepresentation. We are doing so for the reasons that the validity holder is not before us and we do not intend to cause any prejudice to him by making observations in this matter behind his back.

8. Obviously, the observations of the Supreme Court in the matter of **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and Ors.;2023 SCC Online SC 326** (paragraph No.22) would be the guiding factors before the petitioners are extended benefit of father's validity.

9. As can be seen from the original file of the Committee in the

matter of petitioners' father Dilip, a vigilance inquiry was conducted, even the so called dubious school record of his father was considered and by a reasoned order he was held entitled to have a certificate of validity. It is not that the then Committee had held Dilip to be entitled to validity merely on the basis of the school record, which is the subject matter of dispute, of his father Gangadhar Gangaram Zudape of the year 1955. In addition, some other documents also were relied upon and the Committee precisely pointed out that it was in agreement with the remark of the Vigilance Officer and also the Research Officer before validating his 'Koli Mahadev' scheduled tribe certificate. These being the parameters laid down in **Maharashtra Adiwasi Thakur Jamat** (supra), the petitioners are entitled to derive the benefit of father's validity even if the Committee has now decided to undertake its rescrutiny.

10. The writ petition is partly allowed. The impugned order is quashed and set aside. The committee shall immediately issue certificates of validity to both the petitioners of 'Koli Mahadev' scheduled tribe. Its validity would be subject to the final outcome of the matter of their father to be reopened by the committee.

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

[**SHAILESH P. BRAHME**]
JUDGE

[**MANGESH S. PATIL**]
JUDGE