



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10262 OF 2019

Nikita d/o Babasaheb Pawar,
Age 17 years, Occ. Education,
Minor through her guardian father
Babasaheb s/o Bhimraj Pawar,
Age 42 years, Occ. Service,
R/o. Javkhede Khalasa, Tq.
Pathardi, Dist. Ahmednagar.

... Petitioner

VERSUS

- 1) The State of Maharashtra.
- 2) Scheduled Tribes Certificate
Scrutiny Committee,
Through its Member Secretary
Nashik Division, Nashik, Dist. Nashik.
- 3) The Commissioner & Competent Authority,
State Common Entrance Test Cell,
Government of Maharashtra,
8th Floor, New Excelsior Building,
A.K. Naik Marg, Fort, Mumbai.

... Respondents

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Advocate for Petitioner : Mr. Deepak D. Chaudhari.
A.G.P. for Respondent nos. 1 & 2 : Ms. P.J. Bharad
Advocate for Respondent no. 3 : Mr. S.G. Karlekar

CORAM : MANGESH S. PATIL &
S. G. CHAPALGAONKAR, JJ.
DATE : 09.08.2024

ORDER : (MANGESH S. PATIL,J.)

In this petition under Article 226 of the Constitution of India read with sub Section 2 of Section 7 of the Maharashtra Act XXIII of 2001, the petitioner is taking exception to the order of respondent no. 2-scrutiny committee refusing to validate her 'Koli Mahadev (29)' tribe certificate.

2. The learned advocate for the petitioner would submit that the petitioner's father was granted certificate of validity by following due process of law. A vigilance enquiry was undertaken. Same was the case with her paternal uncle Laxman, who was also granted a certificate of validity by following due process of law. The committee ought not to have overlooked these validities. Though the committee has now decided to undertake fresh scrutiny of their validities, the petitioner is ready to run the risk of facing the consequences contemplated in *Shweta Balaji Isankar Vs. State of Maharashtra and others* (writ petition no. 6320 of 2017), and she may be granted certificate of validity making it coterminous with the validities of her father and paternal uncle Laxman.

3. Per contra, the learned A.G.P. would submit that the petitioner's father and Laxman had resorted to fraud. They had suppressed contrary record of the blood relatives and had succeeded in obtaining the certificates of validity. It cannot be said that due process of law was followed. The committee has rightly drawn inference about they having practised fraud and has decided to undertake reverification of their validities.

4. The learned A.G.P., would further submit that there are several contrary entries, which cannot be overlooked and the petition be dismissed.

5. We have considered the rival submissions and perused the papers. At the outset it is necessary to note that since the petitioner's father and the other validity holder Laxman are not before us, no observations can be made in respect of the alleged circumstances on the basis of which the committee has now drawn inference about they having practised fraud. That can happen in an appropriate proceeding. It would be a long drawn process. Till the time the petitioner cannot be made to wait at the cost of her education and career, more so when she is ready to run the risk of facing the consequences contemplated in *Shweta Balaji Isankar Vs. State of Maharashtra and others* (writ petition no. 6320 of 2017).

6. Independently, as can be seen, a vigilance enquiry was conducted in Laxman's matter and for a reasoned order he was held entitled to have a certificate of validity.

7. Besides, the school record of petitioner's grandfather Sakharam Umaji Pawar, who was admitted in the school on 11.10.1946 mentioning in the caste column that he was 'Hindu M. Koli' has not been accepted by the committee simply based on the report of the vigilance. Neither the photo copy of the school register was collected during the vigilance enquiry nor was it produced before the committee and even the committee did not take initiative in calling for the original register to verify the fact and its genuineness. The committee has straight way relied upon the observation in the vigilance report that the original entry is Hindu (Koli) when the vigilance report was demonstrating that letter 'M' was written subsequently (prefixing word 'Koli'). It is thus apparent that the committee has dealt with this pre-constitutional record in a slipshod manner without undertaking minute scrutiny.

8. Be that as it may, when the petitioner's father possesses a certificate of validity and so does other blood relative Laxman, till the time their certificates of validity are not cancelled, she cannot be deprived of the benefit.

9. The Writ Petition is allowed partly. The impugned order is quashed and set aside. The respondent no. 2-scrutiny committee shall immediately issue a certificate of validity to the petitioner as belonging to 'Koli Mahadev (29)' scheduled tribe. The validity shall be subject to the final outcome of the matters which the committee has decided to re-open.

10. The petitioner shall not be entitled to claim equities.

(S. G. CHAPALGAONKAR, J.)
mkd/-

(MANGESH S. PATIL, J.)