



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

WRIT PETITION NO. 9250 OF 2024

1. Ritesh S/O Dasharath Tunkalwad
2. Tulashidas S/O Dashrath Tunkalwad

VERSUS

1. The State Of Maharashtra,
Tribal Development Department,
Through Its Secretary, Mantralaya, Mumbai.
2. Scheduled Tribe Certificate Scrutiny Committee,
Kinwat Through Its Member Secretary

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Advocate for Petitioners : Mr. Phatale Sagar S.
AGP for Respondents/State : Mr. N.D. Batule

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

DATE : 03 SEPTEMBER 2024

ORDER (Per Shailesh P. Brahme, J.) :

. Heard both the sides finally considering exigency in the matter.

2. The petitioners are challenging distinct orders passed on 09.08.2024 by the Scrutiny Committee, rejecting their caste claim and invalidating their tribe certificates.

3. Learned Counsel for the petitioners submits that the relationship of the petitioners with the validity holder – Meerabai Baburao Tunkalwad has not been disputed. Meerabai was issued with

validity certificate after following due process of law. The selfsame record has already been considered by the Scrutiny Committee and therefore the validity certificate of Meerabai would enure to their benefit. The Committee arbitrarily rejected their claim which needs interference.

4. Learned AGP supports impugned judgment and order. It is submitted that the old school record of Devidas Tunkalwad, Baburao Tunkalwad, Nagnath Tunkalwad and Ravikant Tunkalwad is found to be incompatible with tribe claims. The validity certificate issued to Meerabai is not reliable because it was obtained by suppressing material facts. While granting her validity, reliance was placed on the validities of Nagnath and Santosh which are not the blood relatives of Meerabai. The Committee has taken a plausible and reasonable view and no interference is called for.

5. We have considered the rival submissions of the parties. It reveals from the record that Meerabai is a paternal side blood relative of the petitioners. There was vigilance inquiry conducted in her matter. The contrary record of Baburao, Chagutai, Devidas and Ananda was considered by the Committee. Thereafter by a speaking order, she was issued with validity certificate. Pertinently, Fasli record of 1356 of Dharma Tunkalwad was verified and found to be genuine indicating tribe as Mahadev Koli. Apparently Meerabai was issued with validity certificate after following due process of law. It would enure to the benefit of both the petitioners.

6. It is informed that the Scrutiny Committee has issued show cause notice to Meerabai. The contrary record of few of the relatives, is said to have been suppressed, while issuing her validity. It is up to the Scrutiny Committee to conduct reverification to determine as to whether there is fraud or suppression of material facts. Unless the validity certificate of Meerabai is revoked, the petitioners cannot be deprived of same social status.

7. It is noticed that while granting validity to Meerabai, the Committee had referred to Fasli record of Dharma Tunkalwad. Though the same was not pressed into service by the petitioners in the present matter, it was the duty of the Committee to call for record of Meerabai's file and to verify the same because that was of pre-independence record. The Committee failed to conduct due and proper inquiry.

8. The petitioners are ready to run the risk as per the judgment in the matter of **Shweta Balaji Isankar Vs. the State of Maharashtra and Others**, in Writ Petition No.5611/2018. We are of the considered view that the petitioners are entitled to receive validity certificates conditionally. The impugned judgment and order is unsustainable. We, therefore, pass following order :

ORDER

a. The writ petition is allowed partly.

- b. The judgment and order passed by the Scrutiny Committee is quashed and set aside.
- c. The Scrutiny Committee shall issue tribe validity certificate of 'Koli Mahadev' scheduled tribe to the petitioners forthwith. The same shall be co-terminus with the validity of Meerabai.
- d. The petitioners shall not be entitled to claim equities.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

Najeeb..