



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

**WRIT PETITION NO.11225 OF 2023**

Kum. Gayatri D/o. Devendra Devraj                      ...     **PETTITIONER**  
**VERSUS**

1. State of Maharashtra  
through its Secretary,  
Tribal Development Department  
Mantralaya, Mumbai – 400 032
2. Scheduled Tribe Certificate  
Scrutiny Committee, Dhule  
Division Dhule  
through its Member Secretary  
having its office at Dhule,  
Dist. Dhule

...     **RESPONDENTS**

...  
Advocate for petitioner : Mr. R.K. Mendadkar a/w Vijay G. Gangalwad,  
Ms. Priya Shaw i/b. Sagar S. Phatale  
A.G.P. for Respondent Nos.1 and 2 : Mr. R.S. Wani

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

**DATE                      : 22.07.2024**

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

The petitioner is challenging the order of respondent No.2 -  
Scrutiny Committee constituted under the Maharashtra Act XXIII of 2001,  
thereby refusing to validate her "Tokre Koli" scheduled tribe certificate,  
and directing its confiscation and cancellation.

2.                      Considering the urgency, we have heard both the sides finally  
at the admission stage.

3.                      The learned advocate for the petitioner Mr. Mendadkar  
would submit that petitioner's father Devendra possesses a certificate of

validity issued way back in the year 1997 by following due process of law and for this reason alone she is entitled to validity.

4. Mr Mendadkar would then submit that the petitioner is not seeking to take any exception to the observations of the committee that validity holder Rangarao Sitaram Devraj is not related to her by blood from the paternal side.

5. Mr. Mendadkar would submit that the petitioner is indeed relaying upon the validity possessed by on Mayur Vikram Deoraj and his brother Paresh Vikram Deoraj, albeit with the limited genealogy furnished by the petitioner that was available to the respondent - Scrutiny Committee they are not traceable. He would submit that in fact the petitioner had furnished the genealogy limited to the one branch of which common ancestor was one Eka Dadaji Devraj, whereas, Mayur and Paresh are from the branch of one Bhoju Dadaji Devraj who is none other than Eka Dadaji's real brother. He would submit that precisely for this reason, even petitioner's father Devendra had submitted affidavit in the matters of Mayur and Paresh stating them to be his nephews. He would also advert our attention to the order of this Court passed in the matter of Mayur and Paresh in Writ Petition No.8581/2021 dated 06.02.2024 and particularly observations in paragraph No.7 concluding that the Committee had failed to demonstrate as to how petitioner's father Devendra was not related to Mayur and Paresh. He would, therefore, submit that in any case when this Court has accepted petitioner's father

to be related to Mayur and Paresh by blood and extended them the benefit of his validity, the petitioner cannot be refused the benefit of that validity and more so when this Court has directed certificates of validity to be issued to Mayur and Paresh.

6. The learned AGP would strongly oppose the petition. He would submit that the petitioner sought to rely upon validities of couple of individuals not related to her by blood and in the absence of concrete proof regarding any such blood relationship between her and the validity holders, she cannot be allowed to derive the benefit of the validities of those two individuals namely Rangaro Sitaram Devraj and Govind Ratan Saidane. He would point out that in fact petitioner's father had obtained certificate of validity relying upon and posing that Govind Ratan Saidane was his blood relative. He had practised fraud upon the then committee and therefore even father's validity cannot enure to the petitioner's benefit.

7. The learned AGP would further submit that Mayur and Paresh in their own matter had not furnished any genealogy so as to ascertain if it is compatible with the genealogy being relied upon by the petitioner and her father.

8. Besides, the learned AGP would submit that the impugned order expressly refers to several pre-constitutional as well as post constitutional contrary entries, wherein, the petitioner's forefathers have been described as 'Koli', 'Hindu Koli' or 'Hindu Suryawanshi Koli'. He

would submit that it is only in the year 1977 petitioner's father's school record described him as 'Tokre Koli'. He would, therefore, submit that based on such isolated favourable entry, the petitioner cannot be granted certificate of validity.

9. The learned AGP would, lastly, submit that the observation of the Committee that the petitioner's father had obtained certificate of validity by resorting to fraud, when the benefit of validity granted to Govind Ratan Saidane could not have been extended to him being not his blood relative, is sufficient to demonstrate that the Committee's view that the certificate of validity of petitioner's father gets vitiated by fraud is justified.

10. We have considered the rival submissions and perused the papers.

11. Since the learned advocate for the petitioner has expressly stated that he would not be controverting the observation of the Committee that Govind Ratan Saidane and Rangarao Sitaram Devraj are not related to the petitioner by blood from the paternal side, the only issue before us would be to ascertain if it can be said that petitioner's father Devendra was granted certificate of validity by following due process of law, which is a parameter laid down in the matter of **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and Ors.**; 2023 SCC Online SC 326. Paragraph No.22 of the judgment reads as under :

22. *We can also contemplate one more scenario which is found in many cases. These are the cases where the applicant relies upon caste validity certificates issued to his blood relatives. Obviously, such a validity certificate has to be issued either by the Scrutiny Committee constituted in terms of the directions issued in Kumari Madhuri Patil [(1994) 6 SCC 241] or constituted under the Rules framed under the 2000 Act. In such a case, firstly, the Scrutiny Committee must ascertain whether the certificate is genuine. Secondly, the Scrutiny Committee will have to decide whether the applicant has established that the person to whom the validity certificate relied upon by him has been issued is his blood relative. For that purpose, the applicant must establish his precise and exact relationship with the person to whom the validity certificate has been granted. Moreover, an enquiry will have to be made by the Scrutiny Committee whether the validity certificate has been granted to the blood relative of the applicant by the concerned Scrutiny Committee after holding due enquiry and following due procedure. Therefore, if the Scrutiny Committee has issued a validity certificate contemplated in terms of the decision in the case of Kumari Madhuri Patil, the examination will be whether the enquiry contemplated by the said decision has been held. If the certificate relied upon is issued after coming into force of the 2000 Act, the Scrutiny Committee will have to ascertain whether the concerned Scrutiny Committee had followed the procedure laid down therein as well as in the ST Rules or the SC Rules, as the case may be. For this verification, the Scrutiny Committee can exercise powers conferred on it by Section 9(d) by requisitioning the record of the concerned Caste Scrutiny Committee, which has issued the validity certificate to the blood relative of the applicant. If the record has been destroyed, the Scrutiny Committee can ascertain whether a due enquiry has been held on the basis of the decision of the Caste Scrutiny Committee by which caste validity has been granted to the blood relative of the applicant. If it is established that the validity certificate has been granted without holding a proper inquiry or without recording reasons, obviously, the caste scrutiny committee cannot validate the caste certificate only on the basis of such validity certificate of the blood relative.”*

12. A careful reading of the above paragraph makes it abundantly clear that benefit of validity of a blood relative can be extended only if there is no dispute about the blood relationship and the

certificate of validity was issued by following due process of law and for the adequate reasons.

13. Additionally, the principle being trite that fraud vitiates everything, even where such a fraud can be established, the benefit of the validity obtained by resorting to fraud cannot be extended to a blood relative.

14. The learned AGP submits that in spite of strenuous efforts the original papers of petitioner's father Devendra are not traceable with the office of the concerned committee. Even a copy of the order passed in this matter by the then committee has not been placed on record by either side. There is nothing before us to undertake any objective scrutiny of the circumstances which had prevailed over the then committee while granting certificate of validity to petitioner's father Devendra. There is every room to believe that before passing the impugned judgment and order, the Committee had access, at least, to the order of the then committee though not the original file. However, in paragraph No.7(i), the committee has vaguely and in omnibus manner merely observes that petitioner's father had obtained certificate of validity by misleading and by resorting to fraud, by relying upon the validity of Govind Ratan Saidane who was not related by blood and by filing a false affidavit. Unlike what has been laid down in the matter of **Maharashtra Adiwasi Thakur Jamat** (supra), the committee has not made any observation that while granting validity to petitioner's father due process of law was not

followed nor has it observed that the order of the then committee was without reasons. The committee has also not observed in paragraph No.7(i) of the impugned order that petitioner's father was granted certificate of validity **only** on the ground of validity possessed by Govind Ratan Saidane.

15. In view of such peculiar state of affairs, when the papers of petitioner's father Devendra are not available nor is the order passed in his matter and when the present committee has refused to extend the benefit of his validity only by pointing out that he had obtained certificate of validity based on the validity of Govind Ratan Saidane, in our considered view, the petitioner cannot be denied the benefit of validity possessed by her father Devendra.

16. Since the learned AGP is making a submission in tune with the observations of the committee in para 7(i) that fraud was practised on the then committee and contemplating that it may consider to undertake a fresh scrutiny in Devendra's matter, if it is legally entitled to do so, merely by way of a precaution, while extending the benefit of validity to petitioner usual condition can be put, making it coterminous with the validity of her father.

17. As far as relationship between petitioner and Mayur Vikram Deoraj and Paresh Vikram Deoraj, as is pointed out herein above, the petitioner's father had filed affidavit in that matter which a coordinate division bench of this Court has accepted while deciding their matter. It

would not be appropriate for this bench to take a contrary view. Consequently, if Mayur and Paresh have been granted benefit of validity of petitioner's father, that will have to be reciprocated. When this Court has found both of them entitled to have certificates of validity conditionally, even the petitioner can be allowed to rely upon the order of this Court in their matter.

18. The writ petition is allowed partly. Impugned order is quashed and set aside. The committee shall immediately issue a certificate of validity to petitioner of 'Tokre Koli' scheduled tribe. Its validity shall be coterminous with the validity possessed by her father Devendra Sahebrao Devraj.

**[ SHAILESH P. BRAHME ]**  
**JUDGE**

**[ MANGESH S. PATIL ]**  
**JUDGE**

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