



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9540 OF 2024

1] Prachi D/o Devidas Sonawane,
Age 19 years, Occu. Education,
R/o Adagaon, Taluka Bhokardan,
District Jalna

2] Kartiki D/o Devidas Sonawane,
Age 17 years, Occu. Education,
Since through her guardian father
Devidas S/o Eknath Sonawane,
Age – 45 years, Occu. Service,
R/o as above

... Petitioners

VERSUS

The State of Maharashtra
Through Secretary and another

... Respondents

...
Advocate for the Petitioners : Mr. D.D. Choudhari and Mr. Ramesh B. More
A.G.P. for the Respondents/State : Mr. S.P. Joshi
...

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

DATE : 4 SEPTEMBER 2024

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

The petitioners are taking exception to the order of the respondent no. 2 – scrutiny committee refusing to validate their 'Koli Malhar' scheduled tribe certificate.

2. We have heard both the sides and perused the record.

3. Admittedly, the petitioner's father has been issued with a certificate of validity way back in the year 1999. Though the committee

in the impugned order, has referred to it and has even been bold enough to make comments as to the manner in which he was able to obtain the certificate of validity and expressly observed that he had concealed certain documents, which were contrary to his interest.

4. On our query, it was submitted that though the matter was decided by the impugned order as late as on 21-08-2024, the original file of petitioners' father Devidas, of the Nashik scrutiny committee is not available with the learned AGP who is being assisted by the Law Officer of the respondent – committee. They also are unable to tell, as to if the committee had called the original file of petitioners' father – Devidas from Nashik scrutiny committee. If it was not called, one wonders as to how the committee could seek to take exception on the premise that contrary record was not produced before the committee at Nashik.

5. Incidentally, learned advocate for the petitioners submits that he could manage to have certain parts of the file of Devidas under the Right to Information Act. He tenders across the bar a copy of the vigilance report dated 27-02-1997. He submits that only the second page of the order passed in Devidas's matter is made available to the petitioner under the RTI Act. He produced even that second page of the order. We take on record both these documents and mark them collectively as 'X'.

6. We have no manner of doubt that Devidas was granted certificate of validity by undertaking a vigilance enquiry and by a reasoned order which indicated that even he could get through the affinity test. If such is the state-of-affairs, when the parameters laid down in ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others; 2023 SCC Online SC 326*** seems to have been fulfilled, petitioners are entitled to have the benefit of validity of their father – Devidas.

7. We pass the following order :

I) The writ petition is partly allowed. The impugned order is quashed and set aside. The petitioners are held entitled to receive the validity certificates as belonging to 'Koli Malhar' scheduled tribe in the prescribed format.

II) Since the petitioner no. 1 has been allotted Government Medical College, Ratnagiri, the committee shall ensure that the certificate of validity is issued to her during the course of the day. The validity shall be co-terminus with the validity of petitioners' father – Devidas.

III) The petitioners shall not claim equities.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/