



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

WRIT PETITION NO. 9619 OF 2024

Onkar Balaji Papalwad

.. Petitioner

Versus

The State of Maharashtra and another .. Respondents

Shri Deepak D. Chaudhari and Shri Ramesh B. More, Advocates
for the Petitioner.

Shri S. R. Yadav Lonikar, A.G.P. for the Respondent Nos. 1 and 2.

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

DATE : 25 SEPTEMBER 2024.

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

. Heard both sides finally considering urgency for the petitioner.

2. The petitioner is challenging judgment and order dated 28.08.2024 passed by the respondent No. 2/Scrutiny Committee confiscating and invalidating his tribe certificate of 'Koli Mahadev' Scheduled Tribe.

3. The learned counsel for the petitioner submits that paternal side aunt Sangita was issued with the validity certificate after following due procedure of law and old record was considered. The impugned judgment is discriminatory and arbitrary. The learned counsel tenders on record compilation

comprising of vigilance report and order of the Scrutiny Committee in the matter of Sangita.

4. Per contra, learned Assistant Government Pleader submits that the Committee has rightly discarded the validity certificates which were obtained by suppression of material facts and suppressing orders of invalidation in the matter of Gajanan and Dhrupata. He would further submit that incompatible school record was suppressed including that of revenue record of 1954 and 1955. The Committee has issued show cause notices to the earlier validity holder and decided to conduct reverification.

5. We have considered rival submissions of the parties. The genealogy produced by the petitioner indicates that Sangita Ashok Papalwad is first degree cousin of petitioner's father. The relationship has not been disputed. The documents tendered on record would indicate that vigilance enquiry was conducted. The old record was verified and found to be genuine including that of Ashok Deorao of 1978, Bhimrao Topaji of 1987 and Anusaya Rakhmaji of 1987. She was issued with validity certificate by a reasoned order by the Committee. The validity certificate of her cousin Radha Maroti Patait and Bharat Kishanrao Kokewar were relied on, who were disclosed to be maternal side relatives. Apparently, due procedure of law was followed and it would enure to the benefit of the petitioner.

6. It reveals from record that school record and Urdu document of Devrao Sakharam Papalwad of 10.02.1945 were also

pressed into service. It was disclosed by the petitioner that his cousin grandfather Ashok Deorao had the mortgage deed in Urdu script of 1945, but it could not be made available. The same document was referred by the Committee in the order granting validity to Sangita. The Committee did not make any reference to this aspect of the matter. No endeavour has been made by the Committee to find out the genuineness of the record. The validity of Sangita is intact and unless that is revoked, the petitioner cannot be denied the validity.

7. The Committee has issued show cause notice to Sangita for reverification. The incompatible school record including revenue record of 1954-55 and 1960-61 can be considered during the reverification. We have already taken a view in the matter of **Bankam Balaji Maldode Vs. The State of Maharashtra and others judgment dated 25.07.2023 in Writ Petition No. 9047 of 2020** that order of invalidation cannot be treated to be adverse and it is in persona. The invalidation of Gajanan and Dhruvata can have no bearing on the merits of the present matter.

8. The petitioner is ready to run the risk of facing consequences as laid down in the matter of **Shweta Balaji Isankar Vs. The State of Maharashtra and others judgment dated 27 July 2018 in W. P. No. 5611 of 2018**. He is entitled to have validity certificate conditionally. We, therefore, pass following order.

O R D E R

- A. The writ petition is partly allowed.
- B. The impugned judgment and order dated 28.08.2024 passed by the respondent No. 2/Scrutiny Committee is quashed and set aside.
- C. The respondent No. 2/Scrutiny Committee shall issue validity certificate to the petitioner as belonging to 'Koli Mahadev' scheduled tribe immediately in the prescribed proforma.
- D. The validity certificate of the petitioner shall be subject to the outcome of reverification undertaken by the respondent No. 2/Scrutiny Committee of the earlier validity holder.
- E. The petitioner shall not be entitled to claim equities.

[SHAILESH P. BRAHME, J.] [MANGESH S. PATIL, J.]