



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

WRIT PETITION NO. 9690 OF 2024

1. PRATIK SUNIL RAUT

2. KUNAL SUNIL RAUT

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Petitioners : Mr. Choudhari Deepak D.

AGP for Respondents : Mr. R.S. Wani

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

DATE : 09 SEPTEMBER 2024

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

1. Heard both the sides finally at the admission stage as the petitioners have exigency.

2. The petitioners are real brothers and their tribe certificates were invalidated by the Scrutiny Committee vide common judgment and order dated 08.07.2024. Hence they are approaching this Court.

3. The petitioners would rely on the validity certificates of their father – Sunil and also on Soneyabapu Pandurang Raut. Learned Counsel for the petitioners submits that by following due process of law, the earlier validity certificates were issued which would corroborate the petitioners' claim. The earlier validity holders were issued with validity certificates taking into account both favourable entries as well as contrary entries. Unless those are recalled, the petitioners cannot be denied the same social status. Learned Counsel

for the petitioners tenders on record the orders passed in Soneyabapu and his son Pradeep.

4. Learned AGP supports impugned judgment and order. He would submit that the committee could notice pre-independence school record, incompatible with the tribe claim of the petitioners. The earlier validities are not reliable and obtained by suppressing material facts. He would submit that the committee has taken plausible and reasonable view and no interference is called for.

5. We have considered the rival submissions of the parties. Petitioners' father –Sunil is the validity holder. A vigilance inquiry was conducted in his matter. He was issued with validity certificate by a reasoned order by the Committee. It reveals that relying on the validity of Soneyabapu, he was issued with validity certificate.

6. Learned Counsel for the petitioners adverts our attention to vigilance inquiry conducted in Soneybapu's matter. Considering the vigilance report, Soneyabapu was issued with validity certificate by a reasoned order. His son – Pradeep was also issued with validity by the Committee by a reasoned order. The certificate of validity of Sunil, Soneyabapu and Pradeep were issued after due process of law and would enure to the benefit of the petitioners.

7. Learned AGP has vehemently pointed out that pre-independence school record indicating caste Koli was found by the Committee and there was suppression of material facts while issuing validities in the family. The Committee cannot weigh the evidence and castigate earlier validity certificates. The successive Committee is

not an appellate authority. Therefore, the incompatible school record can be at the most considered for reverification.

8. Learned AGP has informed us that the Committee has issued show cause notices to the earlier validity holders. It is up to the Committee to find out as to whether there is suppression of material facts or there is any fraud committed by the family members. Unless the certificates are revoked, the petitioners cannot be denied the same social status.

9. Pertinently the revenue record of blood relative of the petitioners namely Soneyabapu would indicate the prohibition for transfer of land being tribal. This aspect has not at all been dealt with by the Committee. This is additional factor which is corroborating the petitioners' claim.

10. We find that impugned judgment and order is arbitrary. The petitioners are ready to run the risk as contemplated by Shweta Balaji Isankar. We are of the considered view that they deserve to be issued validity certificates on certain conditions. We, therefore pass following order :

ORDER

- i. The writ petition is allowed partly.
- ii. The impugned judgment and order dated 08.07.2024 passed by respondent no. 2 /Scrutiny Committee is quashed and set aside.

iii. Respondent no. 2 /Scrutiny Committee shall immediately issue tribe validity certificate to the petitioners as belonging to 'Koli Mahadev' scheduled tribe in the prescribed proforma.

iv. The validities shall be co-terminus with the validity of the earlier holders.

v. The petitioners shall not claim equities.

vi. Learned AGP and the Law Officer of the Committee who are present, shall ensure that the decision is immediately communicated to the Committee.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]