



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.9687 OF 2024

1. Vishal Ashok Wale
 2. Shital Ashok Wale
- ... PETITIONERS

VERSUS

1. The State of Maharashtra,
through Secretary
Tribal Development Department
Mantralaya Mumbai.
 2. The Scheduled Tribe Caste Certificate
Verification Committee Chh. Sambhaji Nagar
Dist. Chh. Sambhaji Nagar
- ... RESPONDENTS

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Advocate for petitioner : Mr. S.M. Vibhute
Add.G.P for respondents/State : Mr. P.S. Patil

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

DATE : 06.09.2024

ORDER (MANGESH S. PATIL, J.) :

By this petition under Article 226 of the Constitution of India and purportedly resorting to Sub-Section 2 of Section 7 of the Maharashtra Act XXIII of 2001, the petitioners who are siblings *inter se* are challenging the common order of the respondent No.2 – Scrutiny Committee constituted under that Act refusing to validate their ‘Koli Mahadev’ scheduled tribe certificates.

2. Considering the exigency being demonstrated, at the joint request of the parties, the matter is heard finally at the stage of admission.

3. The learned advocate for the petitioners would submit that petitioners' father Ashok possesses a certificate of validity which was issued way back in the year 2011 by following due process of law. Even if the Committee is now alleging about he having practised fraud on the Committee while obtaining the certificate of validity, the Committee will have to undertake due process of law for recalling it. It would be a long drawn process. The petitioners cannot be made to wait to reach that inquiry to finality at the cost of their educational career. They are ready to run the risk as is observed in the matter of **Shweta Balaji Isankar Vs. State of Maharashtra and Ors.;WP No.6320/2017** and ready to receive certificates of validity coterminous with the validity of their father.

4. The Committee is now alleging some manipulation of the record and referring to some contrary school record, wherein, the petitioners' father and other relatives were described as 'Kachari' however, till the time Committee is able to conclude that these individuals had deliberately concealed such contrary record, the petitioners cannot be denied the benefit of having a certificate of validity.

5. Learned advocate would further submit that the Committee on its own has traced out some record in the matter of some individuals, without there being any reference in the vigilance inquiry report and has

drawn inference as to how the persons enlisted by the Committee from the matter of Mera Rangnathrao Bodhwad demonstrates that those individuals are in fact 'Kachari' which is OBC but while admitting in the school many of them were recorded in the school register as 'Ma Ko' or 'Mahadev Koli'. He would submit that the Committee has expressly mentioned in the order itself that these individuals are not related to the petitioners and has still referred to such voluminous record behind their back.

6. Lastly, the learned advocate would submit that the Committee has relied upon 'Hindu Kachari' entry of one Dnyanoba Dasharat Wale of 13.07.1992 and alleged manipulated record of petitioners' father Ashok, wherein, while admitting in the school on 30.07.1990, in the caste column only 'Hindu' was appearing and letters 'Ma Ko' were added subsequently in a different ink. There is no such manipulation. Even the contrary record is of the year 1992 and cannot outweigh the earlier favourable record of 1991.

7. The learned AGP would strongly oppose the petition. He would submit that the petitioners cannot be allowed to derive the benefit of father's validity. Contrary record of 1992 and manipulated record of 1990 could be traced. Father Ashok was granted validity by a Committee headed by one Mr. V. S. Patil. The Government has taken cognizance of the dubious working of the Committee and had even decided to reverify the orders passed by that Committee. The petitioners' father having

obtained validity by suppressing contrary record, they are not entitled to derive the benefit.

8. Learned AGP would submit that apparently, while obtaining validity, petitioners' father Ashok had relied upon school record of his father Ganpat of the year 1949 but the petitioners, consciously and deliberately, are not relying upon that pre-constitutional record, which smacks of the mischief and they cannot be allowed to derive the benefit of such mischief.

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

10. Admittedly, petitioners' father Ashok possesses certificate of validity. A vigilance inquiry was conducted and, by passing an order the Committee had held him entitled to have a certificate of validity.

11. Though the learned AGP submits that the order in the matter of Ashok was not a reasoned order and a printed form was used, wherein, the blanks have been filled in hand, according to us use of such form for passing the order *ipso facto* would not vitiate it. Articulation of an order by the scrutiny committee cannot enable drawing of a conclusion that Ashok was granted validity without application of mind. Applying the parameters laid down in **Maharashtra Adiwas Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and Ors.**;2023 SCC Online SC 326, sustainability of the order passed by the earlier committee on merits, is not one of the parameters to be applied while considering the grant of

benefit of the earlier validities in the family. When there was a vigilance inquiry, documents were collected one of it was of the pre-constitutional period and even the remark of the research officer was favourable to petitioners' father Ashok to the extent of the answers given by him to test his affinity to the tribe which the Committee did not find fault with, in our considered view, it can be said that Ashok was granted validity by following due process of law.

12. So far as allegations regarding fraud are concerned, indeed those are serious. However, the Committee will have to substantiate such inference by resorting to a full-fledge inquiry, extending him an opportunity of being heard. We do not intend to cause prejudice either to him or to the Committee, by undertaking objective scrutiny of the inference of fraud drawn by the Committee. Let that happen in the appropriate proceeding.

13. Once having seen that the petitioners' father was issued with a certificate of validity by following due process of law, till the time it is not recalled, the petitioners cannot be deprived of having the benefit or even cannot be made to wait at the cost of their career, more so when they are ready to run the risk of facing the consequences.

14. The writ petition is partly allowed. The impugned order is quashed and set aside.

15. Though it is almost 5:00 pm, since the petitioners are allotted colleges, the respondent - committee shall ensure that the

certificates of validities are issued to them during the course of the day as belonging to 'Koli Mahadev' scheduled tribe. The validities shall be co-terminus with the validity of Ashok Ganpat Wale.

16. The petitioners shall not claim equities.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

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