



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.9754 OF 2024

Sakshi d/o Sukhdev Jadhav
through natural guardian
Sukhdev s/o Santhosh Jadhav

... PETITIONER

VERSUS

1. The State of Maharashtra,
through Secretary
Department of Tribal Development,
Mantralaya, Mumbai – 32.
2. Scheduled Tribes Certificate
Scrutiny Committee,
Chhatrapati Sambhajnagar (Aurangabad)
through its Member Secretary

... RESPONDENTS

...
Advocate for petitioner : Mr. Deepak D. Choudhari and
Mr. Ramesh B. More
AGP for respondents/State : Mr. R.S. Wani

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

DATE : 05.09.2024

ORDER (MANGESH S. PATIL, J.) :

The petitioner is challenging the order of the respondent No.2 – Scrutiny Committee in a proceeding under Section 7 of the Maharashtra Act No.XXIII of 2001, refusing to validate her ‘Koli Malhar’ scheduled tribe certificate.

2. Considering the urgency being demonstrated, with the consent of both the sides, the matter is heard finally at the stage of

admission.

3. We have heard both the sides finally and urgently in the wake of the fact that petitioner has been given Provisional Selection Letter (CAP 1) of NEET (UG)-2024 and has been allotted college and today is the last date for her to confirm the admission from the reserved category.

4. The learned advocate for the petitioner would submit that petitioner's father Sukhdev and real uncle Kailas possess certificates of validity and those were issued by following due process of law. Even if the Committee is entertaining a doubt and making allegations about they having obtained validities by concealing contrary record and has decided to undertake review of the validities, she cannot be made to wait as it would be a long drawn process. He would submit that the petitioner is ready to run the consequences as mentioned in **Shweta Balaji Isankar Vs. State of Maharashtra and Ors.;WP No.6320/2017** and deserves to be issued with a certificate of validity coterminous with the validities of her father and uncle.

5. Per contra, learned AGP would oppose the petition. He would submit that the Committee in the vigilance inquiry found that some of the school record relied upon by the petitioner was found to be manipulated. There were couple of contrary entries, wherein, petitioner's cousin grandfather were described as 'Koli'. The order in the matter of petitioner's father indicated that Committee was swayed away by the

order passed in Writ Petition No.6648/2004 mentioning it to be order of validity of his blood relative but in fact from the Official Website of the Bombay High Court, the writ petition with that number either of the Principal Seat, Appellate Side or this bench show that those were matters which were unconnected with the caste validity. He would submit that the Committee has legitimately formed a view about the validity holders having obtained the validities by practicing fraud and has rightly decided to undertake rescrutiny. The petitioner cannot be granted benefit of such fraud perpetrated by her father and uncle.

6. We have considered the rival submissions and perused the papers. Though the Committee has referred to couple of contrary entries of 'Koli' of the year 1974 and 1975 and has also recorded certain observations seeking to take exception to the favourable record of 1969, 1974, 1978 and 1986, wherein, according to the Committee, there is manipulation in the caste column, simultaneously, there are several other favourable entries which the Committee itself has reproduced in the order under challenge. There is a school record of one Sitaram Dhonduba Jadhav described as cousin grandfather of 15.07.1967 describing him in the caste column of the school register as 'Malhar Koli'. All other entries either contrary or manipulated are of subsequent period. Applying the principles laid down in **Anand Vs. Committee for Scrutiny and Verification of Tribe Claims and Ors.; (2012) 1 SCC 113**, the oldest entry would carry greater probative value. The Committee has not sought

to take any exception to this school entry of 1967.

7. Besides, the petitioner's father Sukhdev was issued with the certificate of validity by conducting a vigilance inquiry and by referring to the favourable school record and by a reasoned order. Though there is some reference to unconnected Writ Petition No.6648/2004, that was not the only ground and material scrutinized by the Committee. Some other record was also examined and referred to while validating his claim. These being parameters laid down in the matter of **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and Ors.; 2023 SCC Online SC 326**, the petitioner is entitled to have certificate of validity coterminous with the validity of her father and paternal uncle which the Committee has decided to reopen.

8. The writ petition is allowed partly.

9. The impugned order dated 04.09.2024 passed by respondent No.2 - Scrutiny Committee is quashed and set aside.

10. Since the petitioner is required to submit the certificate of validity to secure the admission today itself and has been allotted a College at Chhatrapati Sambhajinagar, the respondent No.2 – Scrutiny Committee shall immediately issue the certificate of validity to the petitioner as belonging to 'Koli Malhar' scheduled tribe in the prescribed proforma.

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

12. The petitioner shall not be entitled to claim equities.
13. 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]
JUDGE

[MANGESH S. PATIL]
JUDGE

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