



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9759 OF 2024

NAYAN BALIRAM BUDHWARE

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Mr. R.K. Mendadkar
and Mr. Vijay Gangalwad

AGP for Respondents : Mr. P.S. Patil

...

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

DATE : 05 SEPTEMBER 2024

PER COURT [*Shailesh P. Brahme, J.*] :

1. Heard both the sides finally as the petitioner wants to prosecute further studies taking benefit of the social status.

2. The petitioner is aggrieved by judgment and order dated 04.09.2024 passed by Scrutiny Committee invalidating her tribe certificate of Koli Mahadev. She seeks to rely on validity certificate of Shivram Bhaurao Budhware, second degree cousin uncle. Learned counsel for the petitioner submits that Shivram was issued with validity certificate after following due procedure of law and it would corroborate her claim. He would further submit that the record of 1953 of Babu Dulaji Budhware supports petitioner's claim. Additionally, Shivram was reported to have cleared affinity test. It is contended that impugned judgment and order is discriminatory and arbitrary.

3. Learned AGP supports impugned judgment and order. It is submitted that incompatible school record was noticed and

school entry of Babu Dulaji Budhware is found to be suspicious. The order passed by the Committee in the matter of Shivram was cyclostyled one. Therefore, the Committee is justified in discarding the validity certificate of Shivram.

4. We have considered rival submissions of the parties. The respondents did not dispute relationship of the petitioner with Shivram. The Research Officer specifically recorded that Shivram withstood the test of affinity. Thereafter, by speaking order he was issued with validity certificate by the Committee. In view of law laid down by Supreme Court in the matter of *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Versus State of Maharashtra and others*, **2023 SCC Online SC 326**, the validity of Shivram is issued after following due procedure of law. It is reliable one.

5. Our attention is invited to school entry of 1953 of Babu Dulaji Budhware and the finding recorded by the Committee. It has been recorded that the original record was not available to verify the school entry and, therefore, it was found to be suspicious. The validity of Shivram is intact though reverification is underway. It would be open for the Committee to ascertain as to whether the validity certificate of Shivram was obtained by fraud or by suppression of material facts. The school record which is incompatible with the tribe claim of the petitioner can also be considered by the Committee. At this juncture, petitioner cannot be made to wait till the result of reverification.

6. The petitioner is ready to run risk in view of *Shweta Balaji Isankar Versus State of Maharashtra and others*, in Writ Petition No. 5611/2018. She can be directed to be issued with

validity certificate subject to outcome of reverification. We, therefore, pass following order :

ORDER

- (i) The writ petition is allowed partly.
- (ii) The impugned order dated 04.09.2024 passed by the respondent no.2/Scrutiny Committee is quashed and set aside.
- (iii) Since the petitioner is required to submit the certificate of validity to secure the admission today itself and has been allotted a college at Pune, the respondent no. 2/Scrutiny Committee shall immediately issue the certificate of validity to the petitioner as belonging to 'Koli Mahadev' scheduled tribe in the prescribed proforma.
- (iv) The validity shall be co-terminus with the validity of the earlier validity holders.
- (v) The petitioner shall not be entitled to 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.]