



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9878 OF 2024

1. MAHESH BALAJI BOINWAD
2. SUNAYANA BALAJI BOINWAD
VERSUS
SCHEDULED TRIBE CERTIFICATE
SCRUTINY COMMITTEE, KINWAT

...
Advocate for Petitioners : Mr. Mahesh S. Deshmukh
AGP for Respondent : Mr. R.S. Wani

...
CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.
DATE : 10 SEPTEMBER 2024

PER COURT :

Heard both the sides finally considering urgency in the matter.

2. The petitioners are siblings and children of Balaji Tukaram Boinwad. They are challenging common judgment and order dated 05.09.2024 passed by the respondent / Scrutiny Committee invalidating their tribe certificates of 'Koli Mahadev'. They would rely on the validity certificate of their father Balaji and the documentary evidence of blood relatives including that of their grandfather Tukaram Deoba Boinwad of 1953. On the ground of parity, they are claiming validity. It is contended that unless validity of their father is revoked, they cannot be denied its benefit.

3. Per contra, learned AGP would submit that Balaji was not issued validity certificate after following due procedure of law. No proper enquiry was conducted in his matter. The validity of

maternal side relative was relied on. By a cyclostyled and non speaking order, he was issued with validity certificate which is rightly discarded by the Committee. It is further contended that the old record of Tukaram Deoba Boinwad is found to be bogus and manipulated during the vigilance enquiry. A coloured photocopy of school record of Tukaram is placed on record. It is further contended that the contrary entries in the school record of Dhondiba, Sahebrao, Sambha, Vyankat, Mahajan, Gangadhar, etc. were noticed which connected the petitioner by common surname. A reliance is placed on the judgment of coordinate bench in the matter of *Prasad Laxmanrao Paratwad Versus State of Maharashtra*, in Writ Petition No. 653/2023 decided on 28.06.2023.

4. A vigilance enquiry was conducted in the case of Balaji Tukaram Boinwad. The old school record of grandfather Tukaram, uncles of the petitioners – Dnyaneshwar and Parmeshwar and aunt Suman was verified during the vigilance enquiry. The school record of Tukaram Deoba Boinwad grandfather of the petitioner, was of 1953. The school entries are found to be genuine. Thereafter, petitioners' father was issued with validity certificate by the Committee. From the original papers, we have gone through the order of the Committee which is based on the verified record during vigilance enquiry. Though it is like a cyclostyled one, that cannot be the sole ground to discard it and that too by the successor Committee in the present matter, when the record relied upon by the predecessor Committee was substantiating the tribe claim.

5. While issuing validity to the petitioners' father, old school record was taken into account. Their grandfather Tukaram

was having school record of 1953 which is having probative value. We have even gone through the coloured photocopy. The observations of the Committee in respect of the school entry of Tukaram cannot be ruled out but Balaji's validity cannot be questioned by the Committee on the basis of record of Tukaram. Apparently, Balaji was issued with the validity certificate by following due procedure of law. The successive Committee cannot appreciate the material considered by the earlier Committee. It is not an appellate forum. The validity can be questioned only on the ground of suppression of material fact and fraud, for which it has to undertake reverification.

6. The Committee has issued show cause notice to earlier validity holder. It is up to the Committee to consider the contrary entries as well as alleged tampered record of Tukaram to determine as to whether there was suppression of facts or fraud was practised. Till the validity certificate is revoked, the petitioner cannot be deprived of same social status.

7. Learned AGP referred to judgment of co-ordinate bench in the matter of Prakash Laxmanrao Paratwad Versus State of Maharashtra and others. He adverted our attention to paragraph nos. 32 to 34. We are in agreement with propositions laid down therein, founded on latest law laid down by the Supreme Court in the matter of *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Versus State of Maharashtra and others*, **2023 SCC Online SC 326**. However, the judgment is distinguishable on facts. We find that due to following differences the judgment would be of no avail :

- i. There are other documents besides school entry of 1953 to corroborate tribe claim of present petitioners.
- ii. Petitioners' father could get through the affinity test.
- iii. The Committee did not conduct the verification of document of 1953 in proper manner.
- iv. No report was called for from the school in question.

8. The petitioner is ready to run the risk in view of *Shweta Balaji Isankar Versus State of Maharashtra*, in Writ Petition No. 5611/2018. We find that the impugned judgment and order is unsustainable. We, therefore, pass following order :

ORDER

- i. Writ Petition is partly allowed.
- ii. The impugned order is quashed and set aside.
- iii. The respondent – committee shall issue tribe validity certificates to the petitioners as belonging to 'Koli Mahadev' scheduled tribe. The validities shall be co-terminus with the validities of earlier validity holders.
- iv. The petitioners shall not claim equities.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]