



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

WRIT PETITION NO. 10055 OF 2024

SAKSHI NARHARI BHOSALE

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Petitioner : Mr. A.S. Bayas

AGP for Respondents/State : Mr. R.S. Wani

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

DATE : 12 SEPTEMBER 2024

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

. Issue notice for final disposal to the respondents. Learned AGP waives service for respondents. We have heard both the sides at the admission stage considering the exigency.

2. The petitioner is challenging the judgment and order dated 09.09.2024 passed by the Scrutiny Committee, invalidating her tribe certificate. She is relying on validities of her father – Narhari and real uncle – Sunil. It is submitted that both of them were issued with validity certificates by due procedure of law. It is further submitted that during the inquiry, it transpired that Sahdev Koli who is cousin great grandfather of the petitioner, was also issued with validity certificate which is not dealt with in the impugned judgment and order.

3. Learned AGP supports impugned judgment and order. The

original papers of petitioner's uncle – Sunil are placed on record. It is submitted that the validities were not issued by conducting due inquiry. The school record of grandfather of the petitioner – Maruti Koli of 1952 is incompatible with the tribe claim. Petitioner's father – Narhari failed to get through the affinity test. During inquiry, revenue record of the blood relatives of the petitioner was found to be tampered. The Committee has issued show cause notices to earlier validity holders.

4. We have considered the rival submissions of the parties and we have gone through the original papers of Sunil. There is no dispute that petitioner's father and real uncle are the validity holders. During inquiry it revealed that cousin great grandfather of the petitioner – Sahdev Koli was also issued with validity certificate. A vigilance inquiry was conducted in case of her father. The Committee rejected the tribe claim. Being aggrieved Writ Petition was filed. By order of High Court, matter was relegated to the Committee. Thereafter the Committee issued validity certificate to the petitioner.

5. In case of Sunil, vigilance inquiry was conducted. Relying on the validity certificate of petitioner's father and Sahdev Koli and considering the documentary evidence, he was issued with validity certificate by the Committee by a speaking order. We find that the validities of petitioner's father and her uncle have been issued after procedure of law and they are reliable at this juncture.

6. We have gone through the impugned judgment and order

which does not reflect consideration of validity of Sahdev Koli. The original papers of Sunil indicate the validity issued to Sahdev. The Committee had opportunity to consider validity of Sahdev. The record could have been called for, to verify as to the manner in which Sahdev was issued with validity certificate. But no endeavour was made by the Committee which is error of jurisdiction.

7. We have considered the vigilance report prepared in the matter of Sahdev and the speaking order passed by the Committee for issuing him validity certificate. Both these documents are part of the paper book of present matter. Sahdev's validity is also reliable.

8. The Committee has issued show cause notices to earlier validity holders. The reverification is under way. The incompatible school and revenue record can be dealt with during reverification. At this juncture, the petitioner cannot be deprived of validity certificate on record. She is ready to face consequences as contemplated in the matter of **Shweta Balaji Isankar Vs. State of Maharashtra and Others** in Writ Petition No.5611/2018. We, therefore, pass the following order.

ORDER

- i. The writ petition is allowed partly.
- ii. The impugned judgment and order dated 09.09.2024 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 admission within stipulated period, the respondent no.2 – Scrutiny Committee shall immediately issue tribe validity certificate 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 holders.
- v. The petitioner 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.]