



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10455 OF 2024

Srusti D/o Vitthal Boinwad,
Age : 18 years, Occu. Education,
R/o Near Mahatma Gandhi Vidyalaya,
Palam, Tal. Palam, Dist. Parbhani

.. Petitioner

Versus

1] The State of Maharashtra,
Through its Principal Secretary,
Tribal Development Department,
Mantralaya, Mumbai

2] The Member Secretary,
Scheduled Tribe Certificate
Scrutiny Committee, Chhatrapati Sambhajinagar
Division, Chhatrapati Sambhajinagar

.. Respondents

...
Advocate for petitioner : Mr. S.B. Solanke
AGP for the respondent – State : Mr. S.R. Yadav - Lonikar
...

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

DATE : 03 OCTOBER 2024

ORDER (MANGESH S. PATIL, J.) :

Heard finally at the joint request of the parties.

2. The petitioner is questioning legality and sustainability of the order of respondent no. 2 – scrutiny committee, in a proceeding under section 7 of the Maharashtra Act No. XXIII of 2001, dated 19-09-2024, refusing to validate her 'Koli Mahadev' scheduled tribe certificate.

3. After hearing both the sides extensively, and even after perusing the original file of the scrutiny committee, it transpires that she has been relying upon several favourable entries wherein she and her blood relatives have been described as 'Koli Mahadev'. This favourable record is of recent origin as compared to that the committee could discover and has expressly referred to several contrary entries of earlier times, wherein the blood relatives were described in the school record as 'Koli' which was earlier a OBC (Other Backward Class) and is currently a SBC (Special Backward Class). Needless to state that the older contrary record would have a greater probative value as compared to the favourable record of a later point of time.

4. Faced with the situation, the only piece of evidence which is said to be favourable to the petitioner, could be that of her great grandfather – Laxman Sadhu Boinwad in the form of certified extract of the register purportedly maintained by the office of the Sub-Registrar, Vasmat / Pathri, District – Parbhani of 1356 *Fasli*. It is a deed of mortgage wherein Laxman has been stated to be the executant of document and described as 'Koli Mahadev'. The petitioner claims to have obtained a certified copy of the register from the office of the Collector, Parbhani in 2011. During vigilance enquiry, the vigilance officer reported that when he issued a letter to the office of the Collector, Parbhani for undertaking comparison of this certified copy of

the extract with the original record maintained by that office, the office had informed him that in spite of having undertaken the search with a person knowing Urdu, the record was not traceable and would be made available, if and when it was traced out.

5. In response to the vigilance report, the petitioner in her reply (**Exhibit – D**), took a stand that due to non-availability of such original record, she had requested the concerned office to verify and certify, as to if the certified copy of the extract of register she had placed before the committee, was issued by that office and in response thereto, the concerned office by communication dated 29-07-2024 had informed that though the original record was still not traceable, the certified copy of the extract was issued by that office on 28-06-2011. She has also produced a true copy of the extract of the outward register at page no. 86.

6. However, conspicuously, the impugned order does not seek to consider such stand of the petitioner. The Committee has merely referred to the observations of the vigilance officer in the report that record was not traceable, but has clearly overlooked the petitioner's stand in the reply to the vigilance report and particularly, the documents she has now placed reliance upon and annexed to the petition, to prove the genuineness of the certified copy.

7. Learned AGP submits that the original file though contains petitioner's reply to the vigilance report, it is not accompanied by any document / annexure. He would submit that apart from the fact that there is nothing to demonstrate that the documents stated to have been annexed with the reply were actually tendered to the committee, there are several reasons even to doubt such subsequent correspondence being relied on by the petitioner. He would lay stress on few such circumstances which according to him, create doubt about the certified copy stated to have been obtained in the year 2011 and even the subsequent correspondence. He would stress that it would be appropriate that the committee is called upon to consider such stand of the petitioner adopted by her in her reply objectively.

8. Considering the peculiar state-of-affairs, since it is a matter of social stauts, it would be appropriate that the committee is called upon to extend an opportunity to the petitioner to substantiate her claim by producing additional evidence. That would enable even the committee to undertake objective scrutiny regarding genuineness of the certified copy of the register obtained by the petitioner in the year 2011, even if the original record / register is not traceable. Since the incompatible record of the older times would weigh against the petitioner, no prejudice would be caused to her, rather she can take an opportunity to substantiate the claim by proving that the document she

has been relying upon in respect of the mortgage deed purportedly executed by her forefather, was a genuine one.

9. The writ petition is allowed partly.

10. The impugned order is quashed and set aside.

11. The petitioner shall appear before the committee on 11-10-2024.

12. The committee shall extend her opportunity of leading additional evidence in the light of the above observations and shall undertake fresh scrutiny of the claim, including the document being produced by the petitioner, to demonstrate that 1356 *Fasli* record is genuine, if necessary, by resorting to additional vigilance enquiry.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/