



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10675 OF 2024

Vaidavee D/o Ram Sonawane,
Age : 18 years, Occu. Education,
R/o Halda, Taluka Sillod,
District – Aurangabad

.. Petitioner

Versus

1] The State of Maharashtra,
Through Secretary,
Department of Tribal Development,
Mantralaya, Mumbai – 32.

2] Scheduled Tribes Certificate
Scrutiny Committee, Chhatrapati
Sambhaji Nagar (Aurangabad)
Through its Member Secretary

.. Respondents

...
Advocate for petitioner : Mr. A.D. Choudhari and Mr. R.B. More
AGP for the respondent – State : Mr. V.M. Chate
...

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

DATE : 03 OCTOBER 2024

ORDER (MANGESH S. PATIL, J.) :

The petitioner who claims to be 'Koli Malhar' scheduled tribe, is aggrieved by the order of the scrutiny committee dated 23-09-2024, refusing to validate her scheduled tribe certificate.

2. In the light of urgency, since the petitioner intends to secure admission through ongoing NEET-UG-2024, the matter is heard finally at the stage of admission.

3. Learned advocate for the petitioner adverts our attention to the genealogy and would submit that petitioner's father Ram (Rangrao) Chintaman Sonawane and her real uncle – Shivaji Chintaman Sonawane both possess certificates of validity. The committee has decided to undertake a fresh scrutiny of those validities on the ground of fraud, having concealed some contrary record, however, till the time it does not succeed in recalling those validity certificates, the petitioner cannot be made to wait at the cost of her career. She is ready to run the risk of facing the consequences as laid down in ***Shweta Balaji Isankar Vs. State of Maharashtra and others (writ petition no. 6320 of 2017)*** and is ready to have a conditional validity.

4. Learned advocate would pertinently point out that in fact Shivaji had faced invalidation. He had challenged that decision in writ petition no. 2044 of 2006. By order dated 18-03-2006, the matter was remanded back to the scrutiny committee for decision afresh and it is thereafter that she was held entitled to have a certificate of validity. The enquiry included the vigilance report and thus, he can be said to have received the certificate of validity by following due process of law.

5. Learned AGP opposes the request. He would submit that no fault can be found with the decision of the committee, in questioning sustainability of the validities of Shivaji Chintaman Sonawane and

father – Ram Chintaman Sonawane. He would submit that without sufficient evidence – Shivaji was held entitled to have certificate of validity. He was extended benefit of the validities of the individuals not related to him by blood. The committee is entitled to take exception to such dubious validities. Father was granted validity by the committee headed by one Mr. V.S. Patil and the Government has decided to undertake reverification of all the validities issued during his regime.

6. Learned AGP would further submit that there was no reliable record of the older times. Validity holders had resorted to manipulation and concealment of contrary record and no fault can be found with the conclusion of the committee in refusing to validate petitioner's tribe certificate.

7. We have considered rival submissions and perused the original record of Shivaji. As can be noticed, he had faced invalidation. He had challenged that order. This Court remanded the matter and it is thereafter, by a speaking order, he was held entitled to have a certificate of validity. A vigilance enquiry was also conducted and it is only after the remand that he was held entitled to have a certificate of validity.

8. Following the parameters laid down in the matter of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State***

of Maharashtra and others; 2023 SCC Online SC 326, the petitioner can be extended benefit of the validity possessed by her paternal uncle – Shivaji and father – Ram provided that they were issued with the certificates of validity by following due process of law.

9. From the afore-mentioned facts and circumstances, we have no manner of doubt that it can certainly be said that Shivaji was issued with a certificate of validity by following due process of law. He being the first validity holder, observation of the committee about validity having been granted to petitioner's father by a committee headed by Mr. V.S. Patil, would be redundant. The decision in the matter of Shivaji, was not by a committee headed by Mr. V.S. Patil.

10. True it is that if the committee is able to establish fraud, it may have the jurisdiction and power to recall the validities but it would be a long drawn process. We do not intend to undertake any objective scrutiny of such inference drawn by the committee as the validity holders are not the parties to the petition and we do not intend to influence the decision of the committee by undertaking such scrutiny. Let the law take its own course.

11. The fact remains that till the time the validities are in existence, petitioner cannot be discriminated against and would be entitled to have a certificate of validity, more so, when she is ready to

run the risk of facing the consequences as laid down in the matter of ***Shweta Balaji Isankar*** (supra).

12. In the light of the above, the impugned judgment and order refusing to grant certificate of validity, is not sustainable in law and is liable to be quashed and set aside.

13. The writ petition is partly allowed.

14. The impugned order is quashed and set aside.

15. The respondent - committee shall immediately issue tribe validity certificate to the petitioner as belonging to 'Koli Malhar' scheduled tribe. The validity shall be co-terminus with the validities of earlier validity holders.

16. The petitioner shall not claim equities.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/