



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

WRIT PETITION NO. 11796 OF 2019

Nitin Vitthalrao Pawar and another .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Shri S. M. Kulkarni, Advocate h/f Shri O. B. Boinwad, Advocate for the Petitioners.

Shri P. S. Patil, Addl.G.P. for the Respondent Nos. 1 and 2.

Shri Sujit Joshi, Advocate for the Respondent No. 3.

Shri S. B. Kakde, Advocate for the Respondent No. 4.

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

DATE : 02 AUGUST 2024.

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

. Heard both the sides finally as the petitioners aspire to prosecute further studies through the caste benefit.

2. This petition is directed against judgment and order dated 01.08.2019 passed by the Scrutiny Committee confiscating and invalidating tribe certificates of the petitioners as belonging to 'Koli Mahadev' scheduled tribe. They rely on validity certificate of their father Vitthal. It is submitted that though validity certificate of father was issued in accordance with law, the committee has discarded it arbitrarily.

3. The learned Additional Government Pleader supports

impugned judgment by tendering on record original file of petitioners' father Vitthal. Learned Addl. G. P. submits that school record of aunt – Shanta and father – Vitthal of the petitioners is not compatible with the caste claim. He would submit that school record of Achyut was not duly verified. It is submitted that validity of Vitthal was obtained by fraud. The Committee has issued show cause notice to Vitthal, but he is not responding.

4. We have considered rival submissions of the parties. We find that there was vigilance enquiry in the matter of Vitthal, father of the petitioners. His vigilance enquiry report indicate that school record of Achyut, Sharad, Ashamati, Sindhu, Indumati and Paraji was verified. Achyut is uncle of the petitioners. His school record of 1960 is indicating caste as Koli Mahadev. From original file, it reveals that Vitthal was issued with the validity certificate by following due procedure of law. For present, his validity certificate is reliable and it would enure to the benefit of the petitioners.

5. It is submitted by the learned Addl. G. P. that no independent vigilance enquiry was conducted in the matter of petitioners, but vigilance report in case of Paraji was adopted and petitioners replied the report. A strong objection is being raised to the school entry of Achyut Baburao Pawar of 1960. It was reported during the vigilance enquiry that school record of Achyut was not available. Without verifying the record, Vitthal was granted validity which is rightly discarded by the

Committee.

6. The Committee should have directed independent enquiry in the present matter. The Committee could have called upon concerned head master of the school or Achyut for verifying genuineness of the school record. The petitioner was not given an opportunity to deal with school record of Achyut. The Committee directly recorded a finding castigating that school record was not existed. This approach is against the principles of natural justice.

7. The Committee has already issued show cause notice to the petitioners' father. Whether there is sufficient record available for issuing validity certificate to father cannot be the scope of enquiry in the petitioners' matter. Unless the validity certificate of Vitthal is revoked petitioners cannot be deprived of its benefit.

8. Petitioners are ready to run the risk as contemplated in the matter of **Shweta Balaji Isankar Vs. The State of Maharashtra and others judgment dated 27 July 2018 in W. P. No. 5611 of 2018**. The learned Addl. G. P. has made a grievance that the petitioners' father is not cooperating with the enquiry of reverification. Considering this aspect of the matter, ends of justice would be met if we impose certain conditions while granting validity to the petitioners. We, therefore, pass following order :

O R D E R

- A. The writ petition is allowed partly.
- B. The impugned judgment and order dated 01.08.2019 passed by the respondent No. 2/Scrutiny Committee is quashed and set aside.
- C. The respondent No. 2/Scrutiny Committee shall issue validity certificates of 'Koli Mahadev' (Scheduled Tribe) to the petitioners immediately, which shall be co-terminus with the outcome of reverification of validity of the petitioners' father Vitthal.
- D. Petitioners' father Vitthal shall cooperate with the Committee in reverification and shall remain present before the Committee on 29.08.2024.
- E. The petitioners shall not be entitled to claim equities.
- F. The writ petition is disposed of.

[SHAILESH P. BRAHME, J.] [MANGESH S. PATIL, J.]

bsb/Aug. 24