



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11076 OF 2024

SHIVAM SUDAMRAO INGOLE

VERSUS

THE STATE OF MAHARASHTRA
THROUGH ITS SECRETARY AND ANOTHER

...

Advocate for Petitioner : Mr. Anil Prakashrao Piratwad

AGP for Respondents/State : Mrs. V.N. Patil-Jadhav

...

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

DATE : 10 OCTOBER 2024

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

. Heard both sides finally considering urgency for the petitioner.

2. This petition is directed against judgment and order dated 01.10.2024 passed by the Scrutiny Committee, confiscating and invalidating tribe certificate of the petitioner. The petitioner seeks to rely on the validity of his blood relative Laxman Bhagwan Ingole.

3. Learned Counsel for the petitioner submits that in view of judgment of the Supreme Court in the matter of **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and Ors.**, 2023 SCC Online SC 326, the validity of Laxman is reliable which is wrongly discarded by the Committee. The old record of Bhagwan supports the petitioner's case. Affinity test is also recorded to be in favour of Laxman. It is submitted that the petitioner is

entitled to conditional validity on the ground of parity. He is ready to face the consequences as contemplated in view of **Shweta Balaji Isankar Vs. the State of Maharashtra and Others**, in Writ Petition No.5611/2018.

4. Learned AGP supports impugned judgment and order. She places on record the original papers of validity holder – Laxman. It is submitted that no proper vigilance was conducted in the matter of Laxman. There was suppression of incompatible school entries of the blood relatives of the petitioner. It is vehemently submitted that the relationship of the petitioner with the validity holder is disputed. There is inconsistency in the genealogy given by the petitioner and which was obtained in the vigilance. Even the orders of invalidation of two members of the family were suppressed, therefore the Committee has issued show cause notice to earlier validity holder.

5. We have considered the rival submissions of the parties. We have also gone through the relevant record. Petitioner is relying on the validity certificate of Laxman. A vigilance inquiry was conducted in his matter. Its report indicates that old record was verified. The school record of Bhagwan Pandurang Ingole of 1955 disclosing tribe as Mahadev Koli is the oldest one. It is also reported that Laxman could get through affinity test. Thereafter by a reasoned order, Laxman was issued with validity certificate by the Committee. We find that applying the law laid down by the Supreme Court in the matter of Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti (supra),

Laxman was issued with validity certificate after following due procedure of law and it would enure to the benefit of the petitioner.

6. Our attention is invited to the incompatible record of the blood relatives of the petitioner namely Gangaram, Bhagwan, Aaba, Sharda, Sudam and Sushila. The genealogy given by the petitioner and the genealogy which is obtained during the course of vigilance are inconsistent. The genealogy given by Laxman is not complete one. However, no inference can be drawn that there is a suppression of material fact or element of fraud. The relatives whose contra entries are pitted against the petitioner, can be seen in the genealogy given by the petitioner.

7. The petitioner produced extract of service book of his father wherein caste is mentioned as Koli Mahadev. During vigilance when the service book was verified, it revealed that in the column of caste only Koli was mentioned. If this is the situation it was incumbent upon the Committee to conduct further verification. There are two inconsistent entries in the service book of the petitioner's father. We find that proper verification was not conducted by the vigilance Cell and even the Committee abdicated its duty to ensure that.

8. Though learned AGP is disputing the relationship of the petitioner with the validity holder, the Committee did not express any doubt about it. The school entry of Bhagwan of 1955 supporting the petitioner's claim has not been disputed. Unless the earlier validity is revoked, the petitioner cannot be deprived of same social status. The

petitioner is ready to face the consequences as contemplated in view of Shweta Balaji Isankar (supra). It is desirable to issue him validity certificate conditionally. We find that impugned judgment and order is unsustainable. We, therefore, pass following order :

ORDER

(i) The writ petition is partly allowed. The impugned order dated 01.10.2024 passed by the respondent no.2/Scrutiny Committee is quashed and set aside. The Scrutiny Committee shall immediately issue tribe validity certificate to the petitioner as belonging to 'Koli Mahadev' scheduled tribe in the prescribed format without adding anything. The validity shall be subject to the final outcome of the matters which the Committee has decided to re-open.

(ii) The petitioner shall not be entitled to claim equities.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

Najeeb..