



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11479 OF 2024

NANDINI D/O. KERBA SURWASE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for Petitioner : Mr. D.D. Choudhari
and Mr. R.B. More

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

...

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

DATE : 16 OCTOBER 2024

PER COURT [*Shailesh P. Brahme, J.*]:

Heard both the sides finally considering the exigency in the matter.

2. The petitioner is assailing judgment and order dated 24.09.2024 passed by the respondent no. 2 – Scrutiny Committee, invalidating tribe certificate of the petitioner. She is relying upon the tribe certificate of her father Kerba Narhari Surwase.

3. Learned counsel for the petitioner submits that Kerba was issued with validity certificate by following due procedure of law which would enure to the benefit of the petitioner.

4. Learned AGP supports impugned judgment and order. She tenders on record original papers of Kerba. She would submit that Kerba was issued with validity certificate only on the basis of court record of Fasli 1348 which was in the name of Narhari –

grandfather. Consistently, Fasli record of Court at Udgir has been disbelieved. For that purpose, reliance is placed on our judgment in *Sohan Suryakant Wedulwar Versus The State of Maharashtra and another*, in Writ Petition No. 10143/2024. Besides that, it is submitted that there is inconsistent school record since 1970.

5. Petitioner is relying on validity certificate of her father Kerba Narhari Surwase. The original papers of Kerba show that relying on Fasli record of 1348 of the criminal court proceedings of Udgir, the validity was given. It has been consistently recorded that that record of Judicial Magistrate First Class, Udgir, District Latur, is unreliable. The Committee has also referred to the orders passed in Writ Petition No. 4297/2007 in the matter of *Kum. Balika Dagadu Patakrao Versus State of Maharashtra*, expressing doubt about such record. We have also reiterated the same view in the matter of *Soham Suryakant Wedulwar* (supra) decided on 26 September 2024. Learned AGP is justified in submitting that the Udgir Court cannot be relied upon.

6. It transpires that the Committee observed that petitioner's father was issued with validity banking upon the validity of *Sanjay Baburao Surwase*. However, the order passed in the matter of Kerba does not refer to validity of Sanjay. It further reveals that Kerba had filed affidavit in his matter disclosing validity of Sanjay Baburao Surwase and Pralhad Lalu Jagle. In all probabilities due to this affidavit, the Committee has recorded that Kerba was relying on validity of Sanjay.

7. At this stage, learned counsel for the petitioner prays to remand this matter to the Committee. The petitioner wants to

explore possibility of collecting some more material to substantiate her claim. As this is not an adversarial litigation, we are inclined to grant one opportunity to the petitioner. We, therefore, pass following order :

ORDER

- i. Writ Petition is allowed partly.
- ii. The impugned judgment and order dated 24.09.2024 is quashed and set aside.
- iii. The matter is relegated to the Scrutiny Committee for deciding afresh after extending opportunity to the petitioner.
- vi. The Committee shall decide the matter as expeditiously as possible.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]