



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11542 OF 2024

Asawari D/o Limbaji Hajare,
Age : 19 years, Occu : Education,
R/o Jagalpur Kh., Tq. Chakur,
Dist. Latur

.. Petitioner

Versus

The State of Maharashtra
Tribal Development Department,
Through its Secretary,
Mantralaya, Mumbai – 400 001 and another

.. Respondents

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

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

DATE : 23 OCTOBER 2024

ORDER (MANGESH S. PATIL, J.) :

Heard.

2. The petitioner is challenging the order of respondent no. 2 – scrutiny committee, refusing to validate her 'Koli Mahadev' scheduled tribe certificate.

3. Considering the urgency, inasmuch as the petitioner intends to ensure admission to an educational institute, the matter is taken up for final disposal at the stage of admission.

4. Learned advocate for the petitioner submits that the petitioner is relying upon the validity of her blood relative – Walmik Kondiba Hajare, who was issued with a certificate of validity on 28-07-2011 by following due process of law. Even if the committee now alleges about he having practised fraud, till the time it undertakes the process and is successful in recalling the validity, she is entitled to derive its benefit, he being the paternal uncle. She is ready to face the consequences as laid down in ***Shweta Balaji Isankar Vs. State of Maharashtra and others*** (writ petition no. 6320 of 2017).

5. Learned AGP would submit that no due process of law was followed while granting validity to Walmik. He was extended benefit of validity of his nephew i.e. son of a married sister. Even a dubious, rather forged Udgir Court record, which has been discarded by this Court in several matters, of 1356 *Fasli* was relied upon by the then committee and consequently, the petitioner is not entitled to derive benefit of such a dubious validity which was issued by the committee headed by one Mr. V.S. Patil whose functioning was even noticed by the State Government as objectionable and decision was taken to re-scrutinize the validities issued by that committee.

6. The learned AGP would submit that independently, the petitioner has not been able to substantiate her claim by leading any cogent and convincing evidence. On the contrary, the committee could

trace out several contrary entries in the school record of the blood relatives wherein they have been described as 'Hindu Koli'. 'Koli' being an Other Backward Category, it would be contrary to the petitioner's claim of being 'Koli Mahadev'. All the favourable record is of the recent past, whereas the contrary record of older time would have a greater probative value. The committee has rightly applied affinity test while discarding petitioner's claim.

7. We have heard both the sides and perused the papers.

8. Indeed, Walmik, who was the petitioner's paternal uncle possesses a certificate of validity which was issued by undertaking a vigilance enquiry and for a reasoned order. Unlike the submissions of the learned advocate, the present committee has not referred to the alleged dubious Udgir Court record, but, it is a matter of fact that as per the directions of this Court in the matter of ***Sohan S/o Suryakant Wedulwar Vs. The State of Maharashtra and another*** (writ petition no. 10143 of 2024 – Order dated 26-09-2024), enquiry was conducted by the Principal District and Sessions Judge, Latur and there was an objective finding that all such record was a forged and bogus one and was issued by resorting to forgery by the Court staff and in several matters, we have discarded it. Consequently, the committee in the matter of Walmik could not have relied upon such Udgir Court record.

9. However, it is not that the committee which granted validity to Walmik, was oblivious of his relationship with the validity holders he was relying upon. As can be seen, it was expressly disclosed and even the committee in the order passed in his matter, had referred to Walmik's relationship with these validity holders expressly mentioning that those were not the blood relatives. Therefore, it cannot be said that Walmik had derived the benefit of the validities by misleading the then committee.

10. True it is that in the order under challenge, the committee has assigned several reasons to not to extend benefit of Walmik's validity to the petitioner, alleging that it was obtained by fraud. However, Walmik is not before us and it would not be apposite for us to undertake objective scrutiny of the inference drawn by the committee regarding the alleged fraud. Needless to state that it will have to undertake due process of law and take its inference to the logical end. However, till the time it is able to do so, there being no dispute about the blood relationship between the applicant and Walmik and *ex facie*, he was issued a certificate of validity by following due process of law, she is entitled to have a certificate of validity, subject to the usual conditions.

11. The writ petition is partly allowed.

12. The impugned judgment and order dated 11.10.2024 passed by the respondent No.2 – Scrutiny Committee is quashed and set aside.

13. The respondent No.2 – Scrutiny Committee shall immediately issue tribe validity certificate to the petitioner as belonging to 'Koli Mahadev' scheduled tribe in the prescribed proforma.

14. The validity certificate of the petitioner shall be co-terminus with the validity certificates of the blood relatives of the petitioner who are facing reverification. The order having dictated in presence of the learned AGP and the Law Officer of the Committee, they shall immediately communicate this order to the Committee.

15. The petitioner shall not be entitled to claim equities.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/