



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

965 WRIT PETITION NO. 12105 OF 2023

SAKSHI SURESH PANDHARE

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for Petitioner : Mr. Boinwad Omgashad B.

AGP for Respondents : Mr. R.S. Wani

...

AND

974 WRIT PETITION NO. 11072 OF 2024

1. KUM. JANHAVI SURESH PANDHARE

2. DIGVIJAY SURESH PANDHARE

VERSUS

STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for Petitioner : Mr. R.K. Mendadkar

AGP for Respondents : Mrs. P.J. Bharad

...

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

DATE : 08 OCTOBER 2024

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

Heard both sides finally considering exigency in the matters.

2. The petitioners in both the petitions are siblings and their tribe certificates of 'Koli Mahadev' are invalidated by separate judgments and orders dated 21.09.2023 and 27.09.2023 which are under challenge in these petitions. The record is common and therefore, we propose to decide both these petitions by common order by referring to the paper book of Writ Petition No. 12105/2023.

3. They are relying on validity certificates of their father Suresh and cousin Rohan. Learned counsel for the petitioners submits that after following due procedure of law their father Suresh was issued with the validity certificate which would enure to their benefit. The Committee overlooked the old birth record of Vatsalabai and arrived at erroneous conclusion. It is further submitted that when self same record has already been verified in the matters of earlier holders, the petitioners could not have been denied the validities. They are ready to face the consequences as per *Shweta Balaji Isankar Versus State of Maharashtra and Others*, in Writ Petition No. 5611/2018, and therefore, they are entitled to receive conditional validities.

4. Learned AGP supports impugned judgments and orders. He tenders on record original papers of the petitioners as well as that of earlier validity holder Suresh Tulshidas Pandhare. He would submit that Suresh was not issued with validity certificate by proper procedure and due verification. In his case, he was banking on validity of Vrushali who was not related to him. He would refer to the statement of petitioners' father and the genealogy in his matter to show that there was no relationship between him and Laxman in whose branch Vrushali was shown. It is vehemently submitted that there is consistent incompatible school record of the blood relatives of the petitioners since 1953. According to him, the Committee has rightly issued show cause notices to the validity holders. This is not a fit case to grant validity on the ground of parity.

5. We have considered rival submissions of the parties and also gone through the relevant record.

6. Petitioners are the siblings and they are relying on the validity issued to their father Suresh. In the matter of Suresh, vigilance enquiry was conducted. Its report indicates that the favourable as well as contrary entry were also verified during vigilance. The oldest entry that of Tulshiram Govind Pandhare of 1953 was found to be genuine. Thereafter, by a reasoned order he was issued with a validity certificate. In his case, reliance was placed on the validity issued to Vrushali Vinayak Pandhare.

7. We have gone through the genealogy drawn in the matter of Suresh and the present case. The genealogy can be said to be incomplete but no fraud can be inferred at this stage.

8. The Committee did not express any doubt about the relationship of earlier validity holder Suresh with Vrushali Vinayak. The statement of Suresh is referred to by learned AGP to show that there was no relationship. Unless validity of Suresh is invoked, it is not appropriate to draw inference of fraud or suppression of material facts in the present proceedings. The Committee is conducting reverification and it would be open for it to take into account incompatible record.

9. Though, there is incompatible school record since 1953 as we have already expressed unless the earlier validities are revoked, the petitioners cannot be denied the benefits of social status. It cannot be lost sight of that old record of petitioners' grandfather Tulshidas of 1953 corroborates the petitioners' claim.

10. From the papers of petitioner Janhavi, our attention is invited to birth record of Vatsalabai Govind Pandhare of 1347 Fasli and that of Rajabai Pandurang Pandhare. The petitioners' father by

way of affidavit tendered before the Committee disclosed relationship with Vatsalabai and Rajabai. The record of the both these persons was in Modi script which was translated. The copies of translation and verification of the same are on record. This record is having greater probative value and would also support the petitioners' claim. The Committee should not have discarded the clinching material. For this reason also, we find both the impugned judgments are unsustainable.

11. The Committee has decided to undertake reverification of earlier validities. The petitioners cannot be made to wait till the outcome of reverification. There is cogent evidence on record to grant them conditional validities. They are ready to abide by consequences of *Shweta Balaji Isankar* (supra). It is desirable to grant them conditional validity. We, therefore, pass the following order :

ORDER

- i. The writ petitions are allowed partly.
- ii. The impugned judgments and orders dated 25.09.2024 and 27.09.2024 passed by respondent No.2/Scrutiny Committee are quashed and set aside.
- iii. The respondent no. 2/Scrutiny Committee shall issue tribe validity certificates to the petitioners as belonging to 'Koli Mahadev' scheduled tribe immediately in the prescribed proforma.
- iv. The validity certificates of the petitioners shall be subject to outcome of reverification

undertaken by the committee of the validity holders.

v. The petitioners shall not be entitled to claim equities.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]