



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

911 WRIT PETITION NO. 13571 OF 2021

1. Sanket Shankarrao Chinmalwar
2. Sanjay s/o Shankarrao Chinmalwar

VERSUS

The State Of Maharashtra And Others

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Advocate for the Petitioner (Thr. V.C.) : Mr. Mendadkar R.K.

AGP for Respondents : Mr. S.R. Yadav-Lonikar

Advocate for Respondent 3 : Mr. M.D. Narwadkar

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**CORAM : SMT. VIBHA KANKANWADI &
S. G. CHAPALGAONKAR, JJ.**

Dated : March 12, 2024

PER COURT :-

1. The petitioners have approached this Court under Article 226 of the Constitution of India, thereby impugning the order dated 26.11.2021 passed by the Schedule Tribe Certificate Verification Committee, Aurangabad-Respondent No.2, thereby invalidating the Tribe Claim of the petitioners for “Koli Mahadev” Scheduled Tribe.

2. The petitioners contend that they belong to ‘Koli Mahadev’ Scheduled Tribe. The Competent Authority has issued Tribe certificates that they belong to ‘Koli Mahadev’ Scheduled Tribe. While they were pursuing their education, their Tribe Claims were referred to the Committee supported by the validity certificate granted in favour of Pooja Shankar Chinmalwar i.e. sister of the petitioners. The Committee

referred the claim to the Vigilance Cell, who submitted its inquiry report dated 4.9.2021 to the Committee. The Petitioners replied to the vigilance inquiry report, however, the Committee invalidated petitioners Tribe Claim recording erroneous reasons.

3. Mr. Mendadkar, learned advocate appearing for the petitioners vehemently submits that real sister of the petitioners has been granted validity certificate. Similarly, petitioners have placed on record the oldest document of 1330 Fasali, wherein entry of 'Koli Mahadev' can be seen. However, the Committee discarded material evidence giving erroneous reasons.

4. Mr. S.R. Yadav-Lonikar learned AGP appearing for respondent nos.1 and 2 supports the impugned order.

5. We have considered the submissions advanced on behalf of the respective parties. We have perused the original record regarding Tribe claim of the petitioners. It is not in dispute that real sister of the petitioners namely Pooja Shankarrao Chinmalwar has been conferred with the validity certificate for 'Koli Mahadev' Tribe. The petitioners relied upon two more validity certificates of paternal relatives namely Balaji Vyankatrao Petkar and Madhav Vyankatrao Petkar. The petitioners have also placed on record Khasara Patrak of 1330 Fasali of village Degaon. The Committee discarded validity certificate issued in favour of Pooja, merely giving reason that it has been issued based on Khasara Patrak in the name of great grandfather i.e. Jalba Ramji Koli, wherein manipulated entry of

caste is clearly visible. The validity certificates in the name of Balaji Petkar and Madhav Petkar are discarded giving the reason that those are issued during the regime of Mr. V.S. Patil, then Joint Commissioner and many irregularities were noticed during his tenure.

6. Perusal of original record shows that the Committee discarded the Khasara Patrak, which is a pre-constitutional document of 1330 Fasli (1920). The adverse observations of the Committee regarding said document are made relying on photocopy. There is nothing to indicate that the original document was called or the Authority, who is in possession of original document certified manipulation. Perusal of vigilance cell report do not offer sufficient material by which certain conclusion regarding genuineness of the Khasra Patrak can be drawn. We cannot countenance with such approach of the Committee. If the Committee wishes to record any adverse finding regarding pre-constitutional document, it is expected that original document is called for or at least a duly certified copy with comments of the authority, who is in the lawful possession of such record is considered. Further, the observations of the Committee that validity certificates during the regime of Mr. V.S. Patil cannot be given importance is also fallacious. If the Committee has any reason to believe that previous validities are issued without following due procedure, they could examine original record leading to such validity and after examining the same, the decision can be taken either to rely on such validity or discard the same for the reason so recorded.

7. In view of the aforesaid observations, we are inclined to relegate the matter to the Committee for fresh consideration after calling the original record of 'Khasara Patrak' or at least certified copy with the comments of concerned Authority. Resultantly, we proceed to pass the following order.

ORDER

- i. Writ petition is partly allowed.
- ii. The impugned order dated 26.11.2021 passed by the Schedule Tribe Certificate Verification Committee, Aurangabad – Respondent No.2, is hereby quashed and set aside.
- iii. Respondent No.2 - Schedule Tribe Certificate Verification Committee, Aurangabad shall reconsider petitioners claim in light of the aforesaid observations and take fresh decision within a period of Six (6) Months from the date of receipt of this order.
- iv. Writ Petition is accordingly disposed off. No costs.

(S. G. CHAPALGAONKAR, J.) (SMT. VIBHA KANKANWADI, J.)

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