



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11754 OF 2024

Shruti D/o Satish Lawande
Age : 18 years, Occu. : Student,
R/o. Flat No. 202, Shivchaitanya Residency,
Savadi, Tq. Ahmednagar,
Dist. Ahmednagar .. Petitioner

Versus

The State of Maharashtra
Through its Principal Secretary and another .. Respondents

...
Advocate for petitioner : Mr. Amol N. Kakade
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.) :

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

2. We have heard both the sides finally, at the stage of admission.

3. Learned advocate for the petitioner submits that her distant cousins – Mahesh Bhaskarrao Lawande, Kiran Hansraj Lawande and Somnath Machhindra Lawande have been issued with certificates of

validity by the respective committees by following due process of law. Vigilance enquiries were conducted and for a reasoned order, they were held entitled to have certificates of validity. Even the old school record entry of Maruti Bhaurao Lawande of the year 1957 was verified while holding Mahesh Lawande entitled to have a certificate of validity. Even if the committee, for the reasons recorded in the order, has decided to re-open these validities on the ground that those having been obtained by practising fraud, till the time, it is able to undertake the process and is successful in recalling those validities, the petitioner cannot be deprived of having the same benefit. She is ready to run the risk of facing the consequences as laid down in the matter of ***Shweta Balaji Isankar Vs. State of Maharashtra and others*** (writ petition no. 6320 of 2017).

4. Learned AGP would submit that the committee has assigned cogent and convincing reasons and has taken a plausible view, by reasonable appreciation of the evidence. In exercise of the powers under Article 226 of the Constitution of India, this Court cannot substitute its views. There is no perversity or arbitrariness. It has referred to several contrary entries in the school record of near blood relatives as indicated in the order under challenge right from the year 1923. All such contrary record was concealed from the successive committees while obtaining the validities by the afore-mentioned

individuals - Mahesh Bhaskarrao Lawande, Kiran Hansraj Lawande and Somnath Machhindra Lawande.

5. Additionally, the learned AGP would also submit that there is a serious doubt about the petitioner being related to these validity holders by blood from the paternal side. The genealogies furnished by these individuals, in their respective matters, do not tally with the genealogies being relied upon by the petitioner. Consequently, this being one of the parameters laid down in ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others; 2023 SCC Online SC 326***, the petitioner is not entitled to derive the benefit of these validities and the petition be dismissed.

6. We have considered the rival submissions and perused the original files of the petitioner, the other co-applicant—Amol Shivaji Lawande and that of validity holder—Somnath Machhindra Lawande. True it is that in the genealogy furnished by Somnath in his own matter, the common ancestor Maruti Balabhau Lawande was shown to have only two sons—Vithoba and Pandurang, Somnath was shown as Vithoba's great grandson and other validity holder Kiran Hansraj was shown to be great grandson of Pandurang. The genealogy furnished by the petitioner in her matter and signed by her father— Satish demonstrates that common ancestor—Maruti Balabhau Lawande was having third son—Shankar, in addition to Vithoba and Pandurang and

she is shown to be great great granddaughter of Shankar. It, therefore, cannot be said that the two genealogies are wholly incompatible *albeit*, the branch of Shankar Maruti was not shown by Somnath and the validity holder – Kiran. However, incidentally, the committee, in the impugned order has proceeded without entertaining such doubt and has pitted contrary school record of Somnath himself against the petitioner. Meaning thereby that the committee has proceeded without any demur as far as the claim of the petitioner being related to validity holder – Somnath Machhindra Lawande.

7. As can be seen, Somnath was granted certificate of validity by following due process of law and for a reasoned order, he was held entitled to have a certificate of validity. Obviously, the committee having formed an opinion about he having practised fraud while obtaining the certificate of validity, has even issued a show cause notice to him as to why his certificate of validity should not be recalled. However, it was issued way back on 21-08-2019 and till date, the committee has not taken it to the logical end. This would demonstrate that his validity is still intact and till the time the committee concludes the process and is successful in recalling the validity, the petitioner cannot be deprived of the benefit of having a similar validity, more so, when she is ready to run the risk of facing the consequences as laid

down in ***Shweta Balaji Isankar Vs. State of Maharashtra and others*** (writ petition no. 6320 of 2017).

8. Perusal of the order passed by the committee in the matter of Somnath would reveal that it had accepted the documentary evidence and expressly observed that since the committee was satisfied about genuineness of those documents, vigilance enquiry was not needed. In this regard, it would be apposite to refer to ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others; 2023 SCC Online SC 326***. It has been laid down that it is only in case of the scrutiny committee entertaining a doubt regarding the documents furnished by the claimant for substantiating his caste or tribe claim, that for the reasons to be recorded in writing, the scrutiny committee can resort to a vigilance enquiry. Therefore, when the committee in the matter of Somnath, had not entertained any doubt about the documents furnished by him in support of his claim and had not resorted to vigilance enquiry, absence of vigilance enquiry *ipso facto* cannot be regarded as demonstrating that no due process of law was followed. Consequently, the petitioner is entitled to derive the benefit of Somnath's validity.

9. Since Somnath and other validity holders are not before us, we do not feel it appropriate to record any observations by

undertaking objective scrutiny of the observations of the committee demonstrating as to how the validity holders had resorted to fraud.

10. Precisely for this reason, it would not be appropriate even to consider the aspect as to availability of several pre-constitutional contrary documents wherein the petitioner's blood relatives / ancestors were described as 'Panbhare Koli' or 'Koli', since even that fact is being relied upon by the committee to buttress its stand of the validity holders having practised fraud by concealing such contrary record.

11. In the result, the petitioner is entitled to have a certificate of validity which shall be co-terminus with the validities of the aforementioned validity holders whose cases the committee has decided to re-open.

12. The writ petition is partly allowed.

13. The impugned judgment and order dated 30.09.2024 passed by the respondent No.2 – Scrutiny Committee is quashed and set aside.

14. 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.

15. 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.

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

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/