



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

Writ Petition No. 13697 of 2021

1. Avdhut s/o Baburao Nagarwad,
Age: 18 years, Occu.: Student,
R/o. Hippalnari, Tq. Mukhed,
Dist. Nanded.
2. Bhagyoday s/o Motiram Nagarwad,
Age: 21 years, Occu.: Student,
R/o. Hippalnari, Tq. Mukhed,
Dist. Nanded.
3. Sudarshan s/o Motiram Nagarwad,
Age: 19 years, Occu.: Student,
R/o. Hippalnari, Tq. Mukhed,
Dist. Nanded.
4. Pandurang s/o Laxman Nagarwad,
Age: 21 years, Occu.: Student,
R/o. Hippalnari, Tq. Mukhed,
Dist. Nanded.
5. Vitthal s/o Laxman Nagarwad,
Age: 21 years, Occu.: Student,
R/o. Hippalnari, Tq. Mukhed,
Dist. Nanded.
6. Monika s/o Kondiba Nagarwad,
Age: 28 years, Occu.: Student,
R/o. Hippalnari, Tq. Mukhed,
Dist. Nanded.

.. Petitioners

Versus

1. The State of Maharashtra
Through its Secretary,
Tribal Development Department
Mantralaya, Mumbai-32.
2. The Scheduled Tribe Certificate Scrutiny
Committee, Aurangabad Division, Aurangabad.
Through its Member Secretary.

3. The Commissioner and Competent Authority,
State Common Entrance Test Cell,
Maharashtra State, 8th floor new
Excelsior Building, Mumbai – 400001.
(M.S.)

.. Respondents

...

Mr. Vivek U. Jadhav, Advocate for the Petitioners.

Mr. N.D. Batule, AGP for Respondent Nos. 1 and 2/State.

Mr. S.G. Karlekar, Advocate for Respondent No.3.

...

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

RESERVED ON : 21 AUGUST 2024

PRONOUNCED ON : 29 AUGUST 2024

FINAL ORDER (*Per Shailesh P. Brahme J.*) :

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

2. The petitioners belong to the same family. Their tribe certificates of Koli Mahadev, are confiscated and invalidated by the common judgment and order dated 02.12.2021 by the Scrutiny Committee. Being aggrieved, this petition is filed. They would rely on validity certificate of Shivaji and school record of Uttam, Shivaji, Parvati and Tejerao.

3. Learned Counsel for the petitioners Mr. Jadhav submits that the validity certificate of Shivaji was issued in accordance with law and would enure to the benefit of the petitioners. He would submit that the Committee did not take into account reply filed by the petitioners to the vigilance report in respect of the

revenue record which was held to be incompatible with the tribe claim. It is contended that on the ground of parity, the petitioners are also entitled to be issued with validity certificates.

4. Learned AGP tenders on record original papers of petitioners and validity holder – Shivaji. It is vehemently submitted that the validity issued to Shivaji was rightly discarded by the Committee because older school and revenue record was indicative of caste – Koli. The record verified in case of Shivaji was recent. He would further submit that school record of close relatives was found to be manipulated. In the absence of cogent material, it would not be legal to issue validity to the petitioners merely relying upon validity of Shivaji.

5. We have considered the rival submissions of the parties. We have gone through the original papers with the assistance of learned AGP. It reveals that the vigilance inquiry was conducted on two occasions. A report thereof was submitted in the matter of Avdhut on 14.09.2021 and in the matter of other petitioners on 22.09.2020. The petitioners have placed reliance on school record of the relatives. The following entries are comparatively older :

Sr. No.	Name	Relation	Caste	Date
1	Uttam Ramrao Nagarwad	Cousin Uncle	Mahadev Koli	1968
2	Shivaji Namdev Nagarwad	Cousin Uncle	Koli Mahadev	1981
3	Tejerao Namdev Nagarwad	Cousin Uncle	Koli Mahadev	1988
4	Babu Baliram	Father of one of the petitioners	Koli Mahadev	1991

6. The Vigilance Cell discovered following contrary revenue record of 1954-1955, Khasrapatra and 7/12 extract of 1961.

Sr. No.	Name	Relation	Caste
1	Ganu Dharmaji	Cousin great grandfather	Koli
2	Mahadu Baba	great grandfather	Koli
3	Vitthal Baba	Cousin great grandfather	Koli
4	Mashna Baba	Cousin great grandfather	Koli

7. The revenue record of 1954-1955 and 1960-1961 of the paternal side relative of the petitioners is incompatible with their tribe claim. This record has not been disputed by the petitioners in their reply to the report. The reply given by Pandurang Laxman Nagarwad to the report, dated 22.09.2020 would only indicate that lack of knowledge of the revenue record is the stand taken in the reply. The relationship of the petitioners with persons mentioned in the revenue record was not disputed. Revenue record is comparatively older one than the record pressed into service by the petitioners.

8. The school record of Pandurang, Balaji, Mukund was found to be incompatible with the tribe claim of the petitioners. The manipulation was noticed in the school record of Kondiba, Shivaji and Babu. Therefore the Committee rejected the tribe claim of the petitioners. The Committee has issued show cause notice to Shivaji and decided to conduct re-verification.

9. We are of the considered view that Shivaji was issued with validity certificate after following due procedure of law. The revenue record and the objectionable school record of the relatives of the petitioners need to be scrutinized during re-verification. We cannot embark upon an enquiry regarding alleged suppression of facts or fraud in issuing certificate of validity to Shivaji.

10. We have gone through the genealogy produced in the present matter as well as in the matter of Shivaji. Shivaji is seen in the genealogy and he is descendant of Vitthal. Petitioners are descendants of Vitthal and Madhav. From the genealogy also, we do not find any apparent mischief played by the petitioners. Till validity of Shivaji is revoked, the petitioners cannot be denied certificate of validity. They are ready to run risk as per the judgment in the matter of **Shweta Balaji Isankar Vs. the State of Maharashtra and Others**, in Writ Petition No.5611/2018. We find substance in the contention of the petitioner. We, therefore, pass following order :

ORDER

- a. The writ petition is allowed partly.
- b. The judgment and orders passed by the Scrutiny Committee is quashed and set aside.
- c. The Scrutiny Committee shall issue tribe validity certificate of 'Koli Mahadev' scheduled tribe to the petitioners forthwith. The same shall be subject to the outcome of re-verification proposed by the Scrutiny Committee.
- d. The petitioners shall not be entitled to claim equities.

SHAILESH P. BRAHME
JUDGE

MANGESH S. PATIL
JUDGE

najeelb....