



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

WRIT PETITION NO. 13844 OF 2021

Pradip Harichandra Gavli,
Age : 27 Years, Occu. : Student,
R/o Halda, Tq. Sillod,
Dist. Aurangabad. .. Petitioner

Versus

1. The State of Maharashtra,
Through it's Secretary,
Tribal Department,
Mantralya, Mumbai – 32.
2. The Scheduled Tribe Certificate
Scrutiny Committee, Aurangabad,
Through its Deputy Director ®.
3. The Manager (Retail),
Bharat Petroleum Corporation Ltd.,
Ahmednagar Territory, At Post
Akolner, Tq. & Dist. Ahmednagar. .. Respondents

Shri Pratap V. Jadhavar, Advocate for the Petitioner.
Shri V. M. Kagane, A.G.P. for the Respondent Nos. 1 and 2.
The Respondent No. 3 is served.

**CORAM : S. G. MEHARE AND
SHAILESH P. BRAHME, JJ.
DATE : 27TH NOVEMBER, 2024.**

ORAL JUDGMENT :-

. Rule. Rule is made returnable forthwith. Heard both sides finally at the admission stage considering exigency to the petitioner as he is aspiring to secure retail outlet dealership on the basis of caste.

2. Petitioner is aggrieved by judgment and order dated 08.11.2021 passed by the respondent No. 2/Scrutiny Committee invalidating and confiscating his tribe certificate of “Koli Mahlar” scheduled tribe. He is relying on validity certificates issued to his blood relatives namely Prabhu Gavale, Chandrakant, Ganesh, Prakash, Satish and his father Harishchandra and pre-constitutional record of grandfather Ananda Sandu Gavale of 1940.

3. Learned counsel for the petitioner submits that, petitioner’s father and other blood relatives were issued with validity certificates after following due procedure of law and in view of the judgment of the Supreme Court in the matter of Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others reported in *2023 SCC Online SC 326*, petitioner is entitled to receive validity certificate on parity. He further submits that pre-constitutional record of his grandfather has greater probative value in view of judgment in the matter of Anand Vs. Scrutiny Committee reported in *(2012) 1 SCC 113*. Learned counsel further submits that the Scrutiny Committee has committed perversity in rejecting his tribe claim.

4. Learned Assistant Government Pleader supports the impugned judgment and order. He tenders on record original papers of petitioner’s father, who is a validity holder. It is submitted that the invalidation of Prabhu Bhika Gavale was suppressed, who happens to be cousin of the petitioner. Suppressing the earlier invalidation Prabhu had subsequently

obtained validity certificate. While deciding tribe claim of the father of the petitioner this fact was not brought to the notice of the Committee. According to the learned A. G. P. this would amount to fraud and the tribe claim is rightly rejected by the Scrutiny Committee. He further point out incompatible school record of the blood relatives of the petitioner. It is consistently showing “Koli” since 1954 to 1989. He would also point out the manipulated school record of Ratilal Govinda, Anna Bhika and Devidas Shankar. He would further submit that in reply to the vigilance report, the petitioner is unable to explain incompatible school record pitted against him. He would submit that no interference is called for in the impugned judgment.

5. We have considered rival submissions of the parties. We have also gone through the record of petitioner’s father. Petitioner is relying on validity certificates of his father Hari Anand and other blood relatives namely Chandrakant Avachit, Prabhu Bhika and Prakash Ratilal. The genealogy which is produced on record has not been disputed by the respondents.

6. Prabhu Bhika Gavle is one of the blood relatives of the petitioner, who suppressed earlier invalidation and obtained validity certificate. Even if his validity certificate is ignored, there is material on record to support the tribe claim of the petitioner. Mere invalidation would not operate as *res-judicata* is the view taken in the matter of **Bankam Balaji Maldode Vs. The State of Maharashtra and others judgment dated 25.07.2023 in Writ Petition No. 9047 of 2020**. Invalidation of Prabhu would

not affect the tribe claim of the petitioner.

7. It further reveals from the record that in the mortgage deed executed in the year 1940 caste of the petitioner's grandfather was recorded to be 'Koli Malhar'. The original papers of petitioner's father show that original documents and the translated copies were produced before the Committee. After considering old entry of 1940, petitioner's father was issued with validity certificate.

8. We find that old record has greater probative value and in view of judgment of the Supreme Court in the matter of Anand Vs. Scrutiny Committee (supra) and said document is a clinching piece of evidence, which is not properly appreciated by the Committee. The Committee has only observed that the original and the translated copies are not produced on record. The record of petitioner's father was overlooked.

9. Learned A. G. P. has pointed out the incompatible school record of number of relatives as well as manipulated school record. However, when earlier validities are intact, we cannot on the basis of some incompatible school record take any contrary view. It is informed that the Committee has issued show cause notices to the earlier validity holders. In that situation, unless earlier validities are revoked, petitioner cannot be deprived of same social status. For conducting reverification some time would be consumed. Petitioner cannot be made to wait till final outcome of the reverification.

10. Petitioner is ready to run the risk of facing consequences in view of the judgment in the matter of **Shweta Balaji Isankar Vs. The State of Maharashtra and others judgment dated 27 July 2018 in W. P. No. 5611 of 2018**. We are of the considered view that the petitioner is entitled to receive conditional validity. We, therefore, pass following order.

O R D E R

- i) Impugned judgment and order dated 08.11.2021 passed by the respondent No. 2/Scrutiny Committee is quashed and set aside.
- ii) The respondent No. 2/Scrutiny Committee shall issue caste validity certificate of 'Koli Malhar' to the petitioner in the prescribed proforma, immediately.
- iii) The validity of the petitioner shall be subject to the outcome of reverification proposed by the respondent No. 2/Scrutiny Committee.
- iv) The petitioner shall not claim any equity.
- v) Rule is made absolute in above terms. There shall be no order as to costs.

[SHAILESH P. BRAHME, J.]

[S. G. MEHARE, J.]