



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

WRIT PETITION NO. 12484 OF 2024

**SHRAVAN VISHNUDAS TOTEWAD
VERSUS
THE STATE OF MAHARASHTRA
THROUGH SECRETARY AND ANOTHER**

...

Advocate for the Petitioner : Mr. Boinwad Omgashad B.
AGP for Respondents/State : Mrs. P.V. Diggikar

...

**CORAM : S. G. MEHARE AND
SHAILESH P. BRAHME, JJ.**

DATE : 29th NOVEMBER 2024

PER COURT :

. Heard both the sides considering exigency that the petitioner has been allotted a seat in the Dental College at Nanded and he has to submit validity certificate by 30.11.2024.

2. The petitioner is challenging judgment and order dated 23.10.2024 passed by the respondent/Scrutiny Committee, confiscating and invalidating his validity certificate of Koli Mahadev. He is relying on validity certificate issue to his real uncle – Devidas Totewad and the entries of the school record of the blood relatives.

3. Learned Counsel for the petitioner submits that his uncle was issued with validity certificate after following due procedure of law which would enure to his benefit. 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 SC Online SC 326, the petitioner is entitled to receive validity on the ground of parity. He would further submit that on the basis of the selfsame record, his uncle was issued with validity certificate. Unless earlier validity is recalled, the petitioner cannot be deprived of same social status.

4. Learned AGP vehemently opposes submission of the petitioner. She tenders on record the original papers of the petitioner and the validity holder – Devidas.

5. Learned AGP submits that earlier validity was obtained by suppressing tampered school record. It is further submitted that earlier validity holder – Devidas was issued with validity certificate by the Committee headed by Mr. V.S. Patil. In his case, the vigilance inquiry was conducted by Mr. Muley. Both officers were unreliable and in many matters, their conduct was questioned. She would further submit that the Committee has rightly discarded the validity certificate of Devidas because he was banking on validities of maternal side relative. There was no proper vigilance conducted in his matter as school record of grandfather of petitioner – Pandurang of 1952 was bogus. She adverts our attention to the letter/report of the concerned Headmaster dated 23.02.2024. It is submitted that the Committee has taken plausible and reasonable view and no interference is called for.

6. We have considered rival submissions of the parties and we have gone through the relevant papers from the original files.

7. The petitioner is relying on the validity certificate issued to his real uncle – Devidas. It reveals that in case of Devidas, vigilance inquiry was conducted. The old school record of the blood relatives were taken into account. The school entry of petitioner's grandfather – Pandurang was also included in it which was of 1952 indicating caste as Koli Mahadev. It is pertinent to note that Devidas withstood the test of affinity. Apparently Devidas was issued with validity certificate after following due procedure of law. In view of judgment of the Supreme Court in Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti (supra), the validity certificate is reliable and would corroborate the petitioner's claim.

8. Devidas was issued with validity certificate by the Committee headed by Mr. V.S. Patil. Mr. V.S. Patil was not only member, But other members were there. However it cannot be ignored that the decision is taken by the majority. When the decision is taken by the majority just because V.S. Patil was one of the members, the decision does not get vitiated.

9. Another objection of learned AGP is in respect of vigilance in the matter of Devidas being conducted by the Officer Mr. Muley. His conduct was noticed in various orders and therefore his report is unreliable. The Committee has already issued show cause notice to

the earlier validity holder – Devidas. The reverification is underway. Unless Devidas's validity is recalled, at this juncture just because his case vigilance was conducted by one Mr. Muley, the validity cannot be discarded. It would be open to the Committee to undertake scrutiny in respect of any fraud in case of Devidas's matter.

10. Our attention is also adverted to the copies of tampered entries of the blood relatives of the petitioner. Few of those entries appear to be tampered. However those entries were considered while issuing validity certificate to petitioner's uncle Devidas. Till the validity of Devidas is intact, the petitioner cannot be deprived of the same social status. In view of **Shweta Balaji Isankar Vs. The State of Maharashtra and Others** in Writ Petition No.5611/2018, the petitioner is entitled to receive validity certificate conditionally.

11. It has been recorded that the record of petitioner's grandfather is not traceable and reliance is placed on the report submitted by Headmaster on 23.02.2024. The same record was considered in the matter of Devidas. At that time no vigilance was conducted. From the report submitted by the Headmaster, it cannot be inferred that the original record is not at all available tampered or bogus. As the Committee has proposed reverification, it would be open for the Committee to undertake an inquiry into record of Pandurang also. As long as validity of Devidas subsists,, the petitioner cannot be deprived of validity certificate. We are of the considered view that the impugned judgment and order is unsustainable. Therefore, we pass

following order :

ORDER

- a. The writ petition is allowed partly.
- b. The impugned judgment and order is quashed and set aside.
- c. The respondent/Scrutiny Committee shall immediately issue validity certificate of Koli Mahadev scheduled tribe to the petitioner. The same shall be subject to outcome of proposed reverification of validity certificate of Devidas.
- d. The petitioner shall not claim equities.
- e. It is hereby clarified that finding and observations recorded in the present matter would not be an impediment for the reverification proposed by the Committee against Devidas.

[SHAILESH P. BRAHME, J.]

[S. G. MEHARE, J.]

Najeeb.