



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

WRIT PETITION NO. 11914 OF 2024

Kaushalyabai Ramchandra Markante .. Petitioner

Versus

The State of Maharashtra and another .. Respondents

Shri Omgashad B. Boinwad, Advocate for the Petitioner.
Shri S. P. Joshi, A.G.P. for the Respondent Nos. 1 and 2.

**CORAM : S. G. MEHARE AND
SHAILESH P. BRAHME, JJ.
DATE : 19TH DECEMBER, 2024.**

ORDER :

. Heard both sides finally at the admission stage with their consent considering exigency in the matter. The petitioner is prosecuting Ph. D. and to retain the admission tribe validity certificate is necessary.

2. The present petition is directed against the judgment and order dated 26.09.2024 passed by the respondent No. 2/Scrutiny Committee invalidating the petitioner's tribe certificate of 'Koli Mahadev' scheduled tribe. She is relying on nine validities issued to her paternal side blood relatives. Out of them Vinaya Sadanand Markate, Rupesh Ravishankar Markante and Tanaya Sadanand Markante were issued with the validity certificates by distinct orders passed by the High Court. The self same record was considered on earlier occasions in granting validity to the

blood relatives. She is claiming validity on the ground of parity.

3. The learned Assistant Government Pleader supports impugned judgment and order. He tenders on record original file of first validity holder Narsing Sheshrao Markante, Vinaya Sadanand Markante and that of the petitioner. He would submit that the Committee is justified in discarding earlier validities. He would further point out that in vigilance report of Narsing's case, it was revealed that Narsing had two brothers namely Balaji and Venkat, whereas genealogy given by the petitioner in the present matter Narsing's brothers are shown to be Pandharinath and Madhav. He would further submit that it revealed from the statement of Sadanand Mashnaji Markante that Lingu had no real brother, but petitioner has shown Narsu as real brother of Lingu. Thus the genealogy given by the petitioner is misleading. It is also not made clear as to who is the father of Lingu and Narsu. He would advert our attention to incompatible school record traced out during the vigilance.

4. We have considered rival submissions of the parties. We have also gone through the relevant record. Petitioner is relying on following validities :

Sr. No.	Name of the Relative	Relationship with the petitioner	Date of validity
1.	Narsing Sheshrao Markante	Cousin grandfather of the petitioner	16.02.2005
2.	Ravishankar Mashnaji Markante	Cousin uncle of the petitioner	02.07.2007
3.	Rohit Ravishankar Markante	Cousin brother of	04.08.2011

		the petitioner	
4.	Sadanand Dhondiba Markante	Cousin uncle of the petitioner	
5.	Ramakant Pandharinath Markante	Cousin brother of the petitioner	
6.	Shashikant Pandharinath Markante	Cousin brother of the petitioner	

Following blood relatives of the petitioner were issued with validity certificate by the High Court :

Sr. No.	Name of the Relative	Relationship with the petitioner	Writ Petition No.	Order date
1.	Vinaya Sadanand Markante	Cousin sister of the petitioner	8344/2020	17.12.2020
2.	Rupesh Ravishankar Markante	Cousin brother of the petitioner	6311/2019	03.12.2021
3.	Tanaya Sadanand Markante	Cousin sister of the petitioner	04.08.2011	

5. We have gone through the different orders of the High Court granting conditional validities to above relatives, which are part of paper book. There is sufficient material on record to corroborate petitioner's claim. The validities of the blood relatives are intact. At this stage, it cannot be said that proper procedure was not followed in their case. We find that all the above validities would enure to the benefit of the petitioner.

6. We have gone through the original papers of Narsing and Vinaya. There appears to be confusion as to who are the brothers of Narsing. Similarly, Lingu is said to have no real brother. The petitioner is shown to be descendant of branch of Narsu, who is

real brother of Lingu. Vigilance report in the present matter is silent. No doubt has been expressed for the relationship in the report. The committee for the first time expressed doubt in the impugned order. The petitioner was not given opportunity to deal with this aspect of the matter. A useful reference can be made to the law laid down in the matter of Madhuri Nitin Jadhav Vs. The State of Maharashtra and others reported in *2014(3) Mh. L. J. 900*. Para 43 of the judgment reads thus :

43. The Scrutiny Committee must give all opportunities to the affected person. The evidence collected unilaterally by the Vigilance Cell/Authority/Officer, if used against the claimant, all opportunities be given to deal with the same. How the unilaterally collected material be used against the party/claimant, when deciding legal and Constitutional rights. The principle of natural justice needs to be followed, in case of no specific rules. The opportunity needs to be given to the person/claimant to rebut the presumption of decision of Scrutiny Committee, if any, especially when against the Scrutiny Committee order, the Writ Petitions are filed, and the Writ Court under Articles 226 and 227, are required to go into the details of the disputed question of fact and documents, though writ jurisdiction and its scope is limited. The decision is required to be considered in Writ Petition like Appellate Authority The Writ Court needs to examine the case on merits also, including the Vigilance Cell report, which just cannot be overlooked.

7. For discarding the validities, the Committee relied on the tampering of school record of Pandharinath and Ravishankar. But Ravishankar himself was a validity holder. His son Rohit also holds validity. Ramakant and Shashikant who are the sons of Pandharinath hold validity certificates. We are of the considered view that unless earlier validities are revoked, the petitioner cannot be denied the same social status. The

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**. She is entitled to receive the conditional validity.

8. We, therefore, pass following order.

O R D E R

- i) Writ petition is partly allowed.
- ii) The judgment and order dated 26.09.2024 passed by the respondent/Committee is quashed and set aside.
- iii) Respondent/Committee shall issue tribe validity certificate to the petitioner forthwith which shall be subject to outcome of re-verification proposed by the Committee.
- iv) The petitioner shall not claim equity.

[SHAILESH P. BRAHME, J.]

[S. G. MEHARE, J.]

bsb/Dec. 24