



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

1014 WRIT PETITION NO. 15001 OF 2023

- 1] Kum. Pratiksha Dipak Sone
- 2] Kum. Kajal Dipak Sone
- 3] Rushikesh Dipak Sone

... Petitioners

VERSUS

- 1] The State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai – 32.
- 2] The Scheduled Tribe Certificate
Scrutiny Committee,
Kinwat Division, Aurangabad,
Through its Member Secretary
- 3] The Sub-Divisional Officer,
Degloor, Nanded, Maharashtra

... Respondents

...
Advocate for the Petitioners : Mr. A.D. Sonkawade h/f. Mr. S.G. Jayewar
Addl. G.P. for the Respondents/State : Mr. P.S. Patil

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

DATE : 02.07.2024

ORDER (MANGESH S. PATIL, J.):

Leave granted to correct the name of father of petitioners no. 2 and 3. Amendment to be carried out forthwith.

2. Heard.

3. The petitioners are challenging the judgment and order of the respondent – scrutiny committee in a proceeding under section 7 of the Maharashtra Act No. XXIII of 2001, thereby directing confiscation and cancellation of their tribe certificates of 'Koli Mahadev' scheduled tribe.

4. Learned advocate for petitioners submits that petitioners' father possess a certificate of validity which has sustained over a period of time. It was issued after vigilance enquiry was conducted and for the reasons recorded in the order referring to the contrary entries of the petitioners' aunt (sisters of their father) as 'Koli'. He submits that irrespective of the right of the committee to undertake re-scrutiny of the validity granted to father, till the time the certificate of validity issued to him is not cancelled, the petitioners are entitled to derive the benefit of that validity. They can be issued with certificates of validities subject to the final outcome in matter of father which the committee has already re-opened.

5. Learned advocate would submit that the oldest school record of petitioners' grandfather of the year 1953 was before the then committee based on which he was granted certificate of validity. The present committee cannot sit over and comment upon the order passed by the earlier committee particularly when even at that time, the vigilance enquiry was undertaken. He would submit that in the light of **Anand Dhananjay Nalawade Vs. State of Maharashtra; 2014 (4) Mh.L.J. 77**, the oldest entries would carry greater probative value rather than the recent contrary entries. He would submit that the impugned judgment and order overlooks all the afore-mentioned aspects and is legally not sustainable.

6. Learned AGP opposes the petition by taking us through the original files of the petitioners as also their grandfather. He would submit that the school record of petitioners' grandfather of the year 1953, itself is

dubious. Though he had produced certified copy before the then committee, the headmaster had expressly informed the vigilance officer about no such entry having been found in the school record. He would also submit that there are several contrary entries of 'Koli' not only in respect of the petitioners' grandfather but even their aunt. If the then committee has committed an error that would not deprive the present committee in undertaking a fresh scrutiny in the light of the contrary record revealed. It cannot overlook the circumstances particularly burning of the school record in the year 2011 for want of which the school record of the grandfather of the petitioners of the year 1953, could not be verified. It is a case of fraud and the committee has rightly decided to re-open the petitioners' father's claim. He has been served with show cause notice and supposed to co-operate the committee.

7. We have carefully considered the rival submissions and perused the record.

8. There is no dispute about the fact that petitioners' father possesses a certificate of validity which was issued by the then scrutiny committee by undertaking a vigilance enquiry way back in the year 2007. The school record of 1953 of petitioners' grandfather was also scrutinized and so were the contrary entries of 'Koli' in the school record of petitioners' paternal aunt.

9. Even if it is now the submission of the learned AGP that after going through the original record of petitioners' grandfather, the then

vigilance report expressly indicated and mentioned while verification of the school record of petitioners' grandfather, the then headmaster had denied about any entry in his name in the school record. If the vigilance officer then had expressly reported this fact to the then scrutiny committee, and still the then committee as can be noticed from the order dated 29-07-2006 passed in his matter, had relied upon not only the school record but even had considered the contrary entries of 'Koli' of the petitioners' paternal aunt and still directed certificate of validity to be issued to him, in our considered view, it would not lie in the mouth of the present committee to demonstrate that any fraud was practised upon the then scrutiny committee.

10. Be that as it may, since the committee has been undertaking scrutiny in respect of the validity granted to petitioners' father, we need not delve into all the disputes in that regard.

11. We are merely pointing out the above two circumstances, to indicate that the petitioners' father was issued certificate of validity after going through the school record of 1953 and overlooking the contrary entries in the school record of the petitioners' paternal aunt. If this is the state-of-affairs, in our considered view, the petitioners cannot be denied certificates of validities.

12. Hence, the following order :-

- I) The writ petition is partly allowed.
- II) The impugned order is quashed and set aside.
- III) The respondent - committee shall immediately issue tribe

validity certificates to the petitioners as belonging to 'Koli Mahadev' scheduled tribe in the prescribed format without adding anything. The validities shall be subject to the final outcome of their father's matter which the committee has decided to re-open.

IV) The petitioners shall not be entitled to claim equities.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

arp/-