



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 15349 OF 2023

- 1) Vishwajeet s/o Laxman Botle
Age 25 years, Occ. Student.
 - 2) Ajeet s/o Laxman Botle,
Age 28 years, Occ. Student,
Both r/o. Hattarga Tq. Nilanga,
Dist. Latur
- ... Petitioners

VERSUS

- 1) The State of Maharashtra
 - 2) The Scheduled Tribe Certificate
Scrutiny Committee, Kinwat Office
at Aurangabad, through its
Member Secretary
- ... Respondents

...

Advocate for Petitioners : Mr. Vivek U. Jadhav
Advocate for Respondent nos. 1 & 2 : Mr. P.S. Patil

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

DATE : **12.07.2024**

PER COURT :

By invoking the powers of this Court under Article 226 of the Constitution of India in the light of sub Section 2 of Section 7 of the Maharashtra Act XXIII of 2001, the petitioners are challenging the order passed by respondent no. 2-scrutiny committee refusing to validate their 'Koli Mahadev' scheduled tribe certificates.

2. The learned advocate for the petitioner would submit that the petitioners' father possesses a certificate of validity issued by the then

committee in the year 2009 and that alone should have been the basis for the committee to grant certificates of validity to the petitioners. He would then submit that the committee has overlooked the validity of their father by referring to some contrary/manipulated record stated to have been revealed during the vigilance enquiry. Once the then committee, by resorting to the procedure of undertaking a vigilance enquiry had granted a certificate of validity, the present committee had no power and jurisdiction to take exception to the order of the earlier committee on the specious ground of alleged fraud. The committee has committed an error in refusing to validate the petitioners' tribe certificates.

3. Independently, the learned advocate for the petitioners would advert our attention to the oldest birth record in Form 14 of his grandfather Madhav Maruti, and the revenue record in the name of great grandfather Maruti Krishna. The ground assigned by the committee is unsustainable. In spite of the vigilance officer having not disputed its genuineness, the committee has refused to consider it on a fragile plea that this record is of a stranger, unrelated to the petitioners. He would advert our attention to the photocopies of both these records, wherein these two individuals have been expressly described as 'Koli Mahadev' and the documents being of 1351 Fasli corresponding to 1941 A.D. and 1359 Fasli corresponding to 1949 A.D.

4. Per contra, the learned A.G.P. would support the order. He would submit that it is a well reasoned order. The committee has considered every piece of evidence and has assigned plausible reasons. The petitioners and his ancestors are residents of Hattarga (Ha) Tq. Nilanga, whereas the revenue record and the birth record of 1359 and 1351 *Fasli* are of different villages. There is nothing to demonstrate that these two individuals are from the petitioners' family, and no fault can be found with the observations of the committee that this record could be of some other individual.

5. The learned A.G.P. would further submit that even the committee has

demonstrated as to how the petitioners and their father are unscrupulous. They have made an attempt to practise fraud by leading fabricated evidence. Though the petitioners had relied upon some records of Gulbarga Court, nothing could be traced when the Court was approached. Though some school record of Zilla Parishad Primary School Kasarshirsi was produced to substantiate the claim, when the vigilance enquiry was conducted, no such record was traceable with the school. The headmaster had informed about the relevant record having been sent to the committee for inspection. The committee on inspection noticed that entry at Sr. No. 837, was in respect of some other student and not the great-grandfather of the petitioners as was tried to be made out. This conduct of the petitioners in resorting to fabricated record disentitles them from claiming any relief.

6. As far as the validity possessed by the petitioners' father is concerned, the learned A.G.P. would submit that there are several circumstances indicating that he had practised fraud on the then committee in obtaining the certificate of validity. Contrary record was not produced, no proper enquiry was conducted and no fault can be found with the committee's stand of undertaking a fresh scrutiny of his validity in the light of decisions in the matters of (1) **Raju Ramsing Vasave Vs. Mahesh Deorao Bhivapurkar and ors; 2009(1) Mh.L.J. SC 1**, (2) **Rajeshwar Baburao Bone Vs. State of Maharashtra in Civil Appeal No. 5778/2015 decided on 29.07.2015** and (3) **Jyoti Sheshrao Mupde Vs. State of Maharashtra in Writ Petition No. 1954/2009 decided on 22/08/2012**.

7. We have heard both the sides and considered the record.

8. Admittedly, the petitioners' father possesses a certificate of validity issued way back in the year 2009 by the then committee. Even if the committee, in the impugned order, has tried to demonstrate that he had practised fraud in obtaining the certificate of validity, in our considered view, it would not be appropriate for this Court to undertake any scrutiny of such

allegations since he is not before us. Besides, the issue regarding fraud can only be gone into, considered and decided if the committee undertakes a fresh scrutiny of his matter by issuing a show cause notice to him and by following due process of law. Till the time the certificate of validity issued to him is not finally revoked and cancelled, the petitioners cannot be deprived of deriving the benefit of such validity. Needless to state that the decision of the committee again would be subject to challenge before this Court under Section 7(2) of the Maharashtra Act, XXIII of 2001. It would be a long drawn process. When the petitioners are of tender age and are seeking to make careers by taking admission in the professional courses, they cannot be allowed to wait for the conclusion of the father's matter, which the committee intends to reopen.

9. Besides, the original file of the petitioners' father, which has been made available to us, clearly demonstrates that the then committee had followed due process of law before holding him entitled to have a certificate of validity. Vigilance enquiry was conducted. Documents were solicited and by a reasoned order, he was found entitled to have a certificate of validity. It cannot be said by any stretch of imagination that he was issued with a certificate of validity either without following due process or without assigning reasons. These two precisely are the parameters laid down in the matter of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others; 2023(2) Mh.L.J.785***. Paragraph no. 22 reads thus :

“22. We can also contemplate one more scenario which is found in many cases. These are the cases where the applicant relies upon caste validity certificates issued to his blood relatives. Obviously, such a validity certificate has to be issued either by the Scrutiny Committee constituted in terms of the directions issued in Kumari Madhuri Patil or constituted under the Rules framed under the 2000 Act. In such a case, firstly, the Scrutiny

Committee must ascertain whether the certificate is genuine. Secondly, the Scrutiny Committee will have to decide whether the applicant has established that the person to whom the validity certificate relied upon by him has been issued is his blood relative. For that purpose, the applicant must establish his precise and exact relationship with the person to whom the validity certificate has been granted. Moreover, an enquiry will have to be made by the Scrutiny Committee whether the validity certificate has been granted to the blood relative of the applicant by the concerned Scrutiny Committee after holding due enquiry and following due procedure. Therefore, if the Scrutiny Committee has issued a validity certificate contemplated in terms of the decision in the case of Kumari Madhuri Patil, the examination will be whether the enquiry contemplated by the said decision has been held. If the certificate relied upon is issued after coming into force of the 2000 Act, the Scrutiny Committee will have to ascertain whether the concerned Scrutiny Committee had followed the procedure laid down therein as well as in the ST Rules or the SC Rules, as the case may be. For this verification, the Scrutiny Committee can exercise powers conferred on it by Section 9(d) by requisitioning the record of the concerned Caste Scrutiny Committee, which has issued the validity certificate to the blood relative of the applicant. If the record has been destroyed, the Scrutiny Committee can ascertain whether a due enquiry has been held on the basis of the decision of the Caste Scrutiny Committee by which caste validity has been granted to the blood relative of the applicant. If it is established that the validity certificate has been granted without holding a proper inquiry or without recording reasons, obviously, the caste scrutiny committee cannot validate the caste certificate only on the basis of such validity certificate of the blood relative.”

10. In view of such a ratio, once it is seen that the petitioners' father was

issued with a certificate of validity by following due process of law and by passing a reasoned order, the petitioners cannot be denied its benefit.

11. So far as the two old entries in the name of the petitioners grandfather and great-grandfather are concerned, at the outset, it is necessary to note that the vigilance report does not expressly entertain any doubt about genuineness of this record, even though an attempt has been made by the learned A.G.P. to demonstrate that both records are manipulated one, which is not even the stand of the scrutiny committee in the impugned judgment and order.

12. Be that as it may, the committee has refused to consider such record only on the ground that neither of them mentions the surname of the individual, and these are the records of some different village other than the native of the petitioners. One wonders as to why, as indicated in the vigilance report in paragraph no. 4 when this record was collected by the vigilance officer during enquiry, it if it was not pertaining to the ancestors of the petitioners. For whatever reason when the vigilance officer himself has collected such record, it is unbecoming for the committee to discard it for the reasons mentioned herein above, more so when the vigilance report does not seek to take exception to such record.

13. It may be that, in the process of substantiating the claim, a party may resort to, some manipulation. However, the principle of '*falsus in uno, falsus in omnibus*' is not recognized in India. The enquiry may reveal some inconsistent record and at times even there could be some manipulated record. It is for the committee to separate grain from the chaff. As has been laid down in the matter of ***Anand Vs. Committee for Scrutiny and Verification of Tribe Claims and Ors; (2012) 1 SCC 113***, the oldest record would have a greater probative value. Aforementioned revenue and birth record of the petitioners' great grandfather and grandfather, genuineness of which has not been doubted, in itself would be sufficient to substantiate the petitioners' claim.

14. In any case, since the petitioners' father possesses a certificate of validity, as is mentioned herein above they are entitled to derive the benefit.

15. The writ petition is partly allowed. Impugned order is quashed and set aside. The committee shall immediately issue certificates of validity to the petitioners as belonging to '*Koli Mahadev*' scheduled tribe. Its validity would be subject to the final outcome of their father's matter, which the committee has decided to reopen. The petitioners shall not be entitled to claim equities.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

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