



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

WRIT PETITION NO. 4601 OF 2024

Ajay Sahebrao Sapkal .. Petitioner

Versus

The State of Maharashtra and another .. Respondents

Shri Ogashad B. Boinwad, Advocate for the Petitioner.
Mrs. P. J. Bharad, A.G.P. for the Respondent Nos. 1 and 2.

**WITH
WRIT PETITION NO. 4602 OF 2024**

Vaibhav Vinayak Sapkal .. Petitioner

Versus

The State of Maharashtra and another .. Respondents

Shri Ogashad B. Boinwad, Advocate for the Petitioner.
Shri V. M. Chate, A.G.P. for the Respondent Nos. 1 and 2.

**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.
DATE : 25 SEPTEMBER 2024.**

FINAL ORDER (Per Shailesh P. Brahme, J.) :-

. Heard both sides finally considering the urgency in the matter. Both the petitions can be disposed of by this common order as their tribe claims as belonging to 'Koli Malhar' scheduled tribe are rejected by the Scrutiny Committee by common judgment and order dated 15.04.2024, which is under

challenge.

2. The learned counsel for the petitioners submits that there are numerous validities issued in the family and for that purpose he points out paragraph No. 11 of the memo of the petitions in which list is prepared showing names of the validity holders. Besides that, he tenders on record common judgment and order dated 03rd August, 2023 passed in Writ Petition No. 8671 of 2023 and Writ Petition No. 8676 of 2023 in the matter of Umesh Pandurang Sapkal and Akshay Kautik Sapkal issuing validity certificates by this Court. As the self same record has already been scrutinized and validities have been issued to the blood relatives of the petitioners, the Committee has committed an error of jurisdiction in rejecting the tribe claims of the petitioners. It is further submitted that, the petitioners are 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.**

3. The learned Assistant Government Pleaders support the impugned judgment and order. They would submit that the Committee has taken a plausible and reasonable view. The validity certificates are rightly discarded considering incompatible school record of the blood relatives of the petitioners. They would also point out tampering of the school record in the matter of Avadaji Shamrao and Kailash Shamrao.

The Committee has taken decision to reopen the validity certificates and, therefore, this is not a fit case to grant discretionary relief to the petitioners.

4. We have considered submissions of the parties. The learned counsel for the petitioners adverted our attention to the genealogy. Relationship of the petitioners with the validity holders has not been disputed. The petitioners are the cousins. By a common judgment and order dated 03rd August, 2023 in Writ Petition No. 8671 of 2023 and Writ Petition No. 8676 of 2023, Umesh Pandurang Sapkal and Akshay Kautik Sapkal have been issued with the validity certificates conditionally by this Court. Both of them can be seen in the genealogy. Besides, that the validity holders whose names are mentioned in paragraph No. 11 of the memo of the petitions are also figuring in the genealogy. In such a situation, we are of the considered view that the petitioners are entitled to receive validity certificates as the self same record has already been scrutinized while issuing validity certificates to their blood relatives.

5. Unless validities issued in the family are revoked, the petitioners cannot be deprived of the same social status. The petitioners are ready to run the risk of facing consequences as laid down in the matter of **Shweta Balaji Isankar Vs. The State of Maharashtra and others** (supra). It is desirable to issue validity certificates to the petitioners conditionally. We, therefore, pass following order.

O R D E R

- A. The writ petitions are partly allowed.
- B. The impugned common judgment and order dated 15.04.2024 passed by the respondent No. 2/Scrutiny Committee is quashed and set aside.
- C. The respondent No. 2/Scrutiny Committee shall immediately issue the tribe validity certificates to the petitioners as belonging to “Koli Malhar” scheduled tribe immediately in the prescribed proforma.
- D. The validity certificates of the petitioners shall be subject to the decision of the review of the order dated 22.04.1997 passed by this Court in Writ Petition No. 1665 of 1996.
- E. The petitioners shall not be entitled to claim equalities.

(SHAILESH P. BRAHME J.)**(MANGESH S. PATIL, J)***bsb / Sept. 24*