

WRIT PETITION NO. 16330 OF 2024

Mr.S.Y. Jinturkar for the Petitioner.
Mr.S.B. Kalel, AGP for Respondent Nos. 1 and 2-State.

**CORAM : RAVINDRA V. GHUGE
&
ASHWIN D. BHOBE, JJ.**

DATE : 25TH NOVEMBER, 2024

P.C.:

1. **Rule.** Rule made returnable forthwith and heard finally by the consent of parties.
2. The Petitioner is aggrieved by the impugned decision of the Committee dated 26th July, 2024, by which, Respondent No.2 Committee has rejected her claim of belonging to the Tokre Koli Scheduled Tribe category.
3. We have considered the submissions of the learned Advocates for the respective sides.

4. The learned AGP has vehemently opposed the Petition and submits that there is a finding of fraud, by the Committee.

5. We have perused the family tree placed at page No. 25. The Petitioner Janhavi is the daughter of Sunil Eknath Koli. Sunil has been granted a validity certificate by the Competent Committee, on 3rd June 2014. The said certificate is still intact.

6. The learned Advocate for the Petitioner is, therefore, justified in contending that the law laid down by this Court in ***Apoorva d/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No.1 Nagpur, [2010(6) Mh.L.J.401 : AIR 2010(6) Bom.R.21]***, would squarely apply to the case of the Petitioner. He further places reliance on the judgment in ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti vs. The State of Maharashtra and others, AIR 2023 SC 1657***, wherein the Hon'ble Supreme Court has concluded that if a Vigilance Cell inquiry is conducted and a certificate is granted to a blood relative from the paternal side and if the relationship is established, a Vigilance Cell inquiry may not be necessary.

7. The learned Advocate for the Petitioner points out that a Vigilance Cell inquiry was conducted in the case of the Petitioner's

father Sunil and by a speaking order, a validity certificate has been granted.

8. The learned AGP vehemently submits that the Committee has noticed a fraud. He, however, has no answer on the basis of the record, that the validity certificate granted to Sunil has not been questioned or a notice for review or reopening his case, has not been issued.

9. In this backdrop, until a notice for reopening the case of Sunil is issued, we are unable to accept the stand of the Committee that a fraud has been played. By keeping the validity certificate of Sunil intact, the Petitioner Janhavi cannot be denied a validity certificate by the Committee contending that there is a fraud.

10. In such a situation, we can balance the equities by relying on the view taken by this Court in ***Shweta Balaji Isankar vs. The State of Maharashtra and others***, (2018 SCC Online Bom 10363), wherein this Court has held that if the validity certificate of a close paternal relative suffers invalidation by reopening of the case, the Claimant, who relies upon such a validity certificate, will also have to suffer the same consequences.

11. We deem it appropriate to take this course in view of the fact that no other paternal relative of Sunil has been granted a Tokre Koli validity certificate and, more so, in the light of the contention of the learned AGP that some of the paternal relatives have acquired Special Backward Class Certificates.

12. In view of the above, **this Writ Petition is partly allowed.** The impugned order dated 26th July, 2024 passed by Respondent No.2- the Committee, is quashed and set aside. The Respondent No.2 Committee shall issue a Tokre Koli Scheduled Tribe validity certificate, with proper spelling, to the Petitioner within a period of 30 days from today. If the case of the Petitioner's father is reopened, considering the law laid down in ***Shweta Balaji Isankar** (supra)*, adverse consequences if suffered by Sunil, would also befall upon the present Petitioner.

13. Rule is made partly absolute in above terms.

(ASHWIN D. BHOBE,J.)

(RAVINDRA V. GHUGE, J.)