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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.9997 OF 2023

Rahul s/o Suresh Damale,
Age-29 years, Occu-Education,
R/o Pimpalgaon Fungi, Taluka
Rahuri, Dist. Ahmednagar

-- PETITIONER

VERSUS

1. The State of Maharashtra,
Through Secretary,
Department of Tribal Development,
Mantralaya, Mumbai – 32,

2. Scheduled Tribes Certificate
Scrutiny Committee,
Nashik Division, Nashik-2,
Through its Member Secretary

-- RESPONDENTS

**WITH
WRIT PETITION NO.10040 OF 2023**

Pooja d/o Dnyandev Damale,
Age-30 years, Occu-Household,
R/o Borawake Nagar, Shrirampur,
Taluka Shrirampur,
District : Ahmednagar

-- PETITIONER

VERSUS

1. The State of Maharashtra,
Through Secretary,
Department of Tribal Development,
Mantralaya, Mumbai – 32,

2. Scheduled Tribes Certificate
Scrutiny Committee,

Nashik Division, Nashik-2,
Through its Member Secretary

-- RESPONDENTS

Mr.D.D.Choudhari, Advocate for the petitioners.
Ms.S.S.Joshi, AGP for the respondents/State in both petitions.

(CORAM : MANGESH S. PATIL AND
PRAFULLA S. KHUBALKAR, JJ.)

DATE : FEBRUARY 12, 2025

ORAL JUDGMENT : (Per Prafulla S.Khubalkar, J.)

1. Heard learned Advocates for respective sides. Rule. Rule made returnable forthwith and heard finally by consent of the parties.
2. The petitioners have challenged the common order dated 24.01.2023 passed by respondent No.2/Scrutiny Committee invalidating their claim for 'Koli Mahadev' Scheduled Tribe.
3. The Committee has invalidated the claims by observing that the petitioners have failed to establish their claim on the basis of documentary evidence as well as on account of failure to prove affinity with 'Koli Mahadev' Scheduled Tribe. The learned Advocate Mr.Choudhari for the petitioners has vehemently submitted that on the

strength of documentary evidence, the claims submitted before the Committee, ought to have been validated. He has relied upon the validity certificates in favour of close relatives of the petitioners, mainly validity certificate dtd.18.09.2023 of Shashikant Damale who is cousin brother of petitioner. He has submitted that the Committee has adopted a perverse approach while considering the validities of close blood relatives and in absence of any fraud being established, the validity certificates are wrongly discarded.

4. Ms.S.S.Joshi, the learned AGP for respondent Nos. 1 and 2 has supported the impugned order and submitted that reliance upon validities of Shashikant and others is misplaced since the validity certificates were granted without considering the other relevant documents of their family members. She has submitted that although validity was granted to Shashikant Damale, however, the same was without elaborate enquiry through Vigilance Cell. It is also submitted that the petitioners have even failed to establish any ethnic linkage with 'Koli Mahadev' Scheduled Tribe and therefore the Committee has rightly invalidated their claims on both counts.

5. We have considered the rival submissions and perused the original record in the matter of Shashikant Pandurang Damale, as made available by the Scrutiny Committee.

6. The record in the matter of Shashikant reveals that a Vigilance Cell enquiry was conducted and on the basis of Vigilance Report dated 01.08.2003 and other documents relied upon by him, a reasoned order was passed in his matter validating his claim. It is to be noted that the Vigilance Enquiry was elaborate which even considered the revenue record in the nature of 7/12 extract of Shashikant's grandfather Baburao Malhari Damale, amongst other documents.

7. The relationship of petitioners with Shashikant Damale is not disputed being paternal cousin brother. In view of the fact that validity of Shashikant was granted after due procedure, the reasons mentioned by the Committee to discard his validity are erroneous. Although, the learned AGP has submitted that the validities to petitioners' blood relatives were granted without considering the documents showing contrary entries, the fact remains that those validities are in force and no fraud is yet proved. The petitioners are

entitled to derive benefits of these validity certificates, however, subject to any further decision in case the validities are re-opened.

8. In view of the position of Law as laid down in the matter of **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. The State of Maharashtra and Others, Civil Appeal No.2502/2022 (AIR 2023 SC 1657 = (2023) 3 S.C.R. 1100)**, the scope of enquiry is compliance with due procedure while issuing validity certificates to blood relatives. Since validity was granted to Shashikant by following due procedure, the petitioners being his cousin brother and sister, are entitled for validation of their claims.

9. In view of the judgment in the matter of **Shweta Balaji Isankar Vs. State of Maharashtra and others [2018 SCC Online Bombay 10363]**, the petitioners are entitled for grant of validity certificates, however, subject to decision of the validities, which the Committee may re-open. Hence, we pass the following order :-

[a] The writ petition is partly allowed.

[b] The impugned orders dated 24.01.2023 passed by respondent No.2 / Scrutiny Committee are quashed and set aside.

[c] Respondent No.2 / Scrutiny Committee is directed to immediately issue a validity certificates of 'Koli Mahadev', Scheduled Tribe, in favour of the petitioners.

[d] The validity certificates to be issued to the petitioners, shall be subject to the final outcome of the matters of validity holders, which the Scrutiny Committee has decided to reopen.

[e] The petitioners shall not be entitled to claim equities.

[f] No order as to costs.

10. Rule is made absolute in the above terms.

(PRAFULLA S. KHUBALKAR, J.)

(MANGESH S. PATIL, J.)