



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9157 OF 2024

Sanskar D/o Madhukar Sapkal,
Age : 19 years, Occu. Education,
R/o. Sapakalwadi, Tal. Sillod,
Dist. Aurangabad.

...Petitioner

Versus

1. The State of Maharashtra,
Through the Secretary to Social Justice &
Special Assistance Department,
Mantralaya, Mumbai.
2. The Scheduled Tribe Certificate Scrutiny Committee,
Aurangabad Division, Aurangabad, Dist. Aurangabad.
3. The Sub Divisional Officer, Sillod,
Tal. Sillod, Dist. Aurangabad.

...Respondents

.....
Mr. Anant Devakate – Advocate for the Petitioner
Mr. A.A.A. Khan – AGP for Respondent/State
.....

**CORAM : S. G. CHAPALGAONKAR
AND
NEERAJ P. DHOTE, JJ.**

RESERVED ON : 04TH JULY, 2025
PRONOUNCED ON : 12TH AUGUST, 2025

ORDER [Per Neeraj P. Dhote, J.] : -

1. With the consent of both the sides, heard finally at the
Admission Stage.

2. The Petitioner claims to be belonging to 'Koli Malhar', Scheduled Tribe. While he was studying in the Junior College, he submitted his Tribe Certificate of belonging to the 'Koli Malhar' Scheduled Tribe for verification to Respondent No. 2 – Scrutiny Committee through the Principal of Junior College. He submitted the required documents in support of his claim to Respondent No.2 – Scrutiny Committee. On receipt of the Vigilance Cell Report, the Petitioner was called by Respondent No. 2 – Committee for hearing. After hearing the Petitioner and considering the documents before it, Respondent No. 2 – Committee passed the impugned order dated 22.07.2024, at Exhibit 'E', Page No. 87 to the Petition, invalidating the Petitioner's claim towards the aforesaid Scheduled Tribe. Hence, the Petitioner has approached this Court by way of present Writ Petition under Article 226 of the Constitution of India.

3. It is submitted by the learned Advocate for the Petitioner that, the Petitioner's father received the Tribe Validity Certificate from the Competent Committee for the 'Koli Malhar' Tribe. There are several blood relatives of the Petitioner having the validity for the aforesaid Scheduled Tribe. The Respondent No. 2 –

Committee invalidated the claim of Petitioner's sister towards the said Tribe by order dated 28.11.2022, which came to be challenged in Writ Petition No. 9151 of 2023, and this Court allowed the Petition by Judgment dated 4th January, 2024. The Respondent No. 2 – Committee acted mechanically without considering the documents available on record, and the impugned order be set aside.

4. It is submitted by the learned AGP appearing for Respondent Nos. 1, 2 and 3 that, the Respondent No. 2 – Committee has given reasons in the impugned order. Though there were validities in the family of the Petitioner, the Petitioner failed to establish his claim, and the Vigilance Cell Report indicates that the Petitioner failed to prove the affinity test. However, he admitted that this Court allowed the Petition of the Petitioner's sister towards the said Scheduled Tribe.

5. The process of issuing the Caste/Tribe Certificate and its verification by the Competent Committee, is regulated by the provisions of the Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of

Issuance and Verification of) Caste Certificate Act, 2000, and the Maharashtra Scheduled Tribes [Regulation of Issuance and Verification of] Certificate Rules, 2003 [hereinafter referred to as 'the Act and Rules'].

6. There is no dispute that the Petitioner's Tribe Claim/ Tribe Certificate was referred to Respondent No. 2 – Scrutiny Committee for verification and Respondent No. 2 – Scrutiny Committee considered the Claim in the light of the above referred Act and Rules. The impugned order gives reference of the documents which were collected during the inquiry. Almost all the documents show the entry in caste column as 'Koli'. Undisputedly, the Petitioner's father holds validity certificate towards 'Koli Malhar' Tribe. So also, the paternal aunt of the Petitioner holds validity towards 'Koli Malhar' Tribe. These aspects are also clear from the impugned order. The Respondent No. 2 – Committee discarded the validity granted to the Petitioner's father on the ground that, the Government had decided to re-open the cases wherein the validity certificates were granted during the tenure of a particular officer of Joint Commissioner rank. However, the fact remains that, till date, the Petitioner's father's validity towards the said Tribe stands valid.

7. Further, it is a matter of record that, the Petitioner's real sister Sanskruti Madhukar Sapkal, whose Tribe Claim for 'Koli Malhar' was invalidated by Respondent No. 2 Committee, had preferred the above referred Writ Petition No. 9151 of 2023, which came to be allowed by the Judgment dated 04.01.2024. The impugned order is admittedly subsequent to the decision in the Writ Petition of the Petitioner's sister and Respondent No. 2 is the very Committee, which was party Respondent No. 2 in the above referred Writ Petition of the Petitioner's sister. However, there is no reference to the said Judgment in the impugned order.

8. The other ground on which the Petitioner's Tribe Claim has been invalidated is the affinity test. Useful reference can be made to the judgment of the Hon'ble Supreme Court of India in *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti v. State of Maharashtra, 2023 SCC OnLine SC 326*. As per the said decision of the Hon'ble Supreme Court of India, the affinity test is not a litmus test to decide a Caste Claim. Further, it is observed in the said decision that, if it is established that the father or grandfather of the applicant has been given a caste validity certificate after holding a lawful enquiry in accordance with law, the Caste Scrutiny

Committee cannot hold that the grandfather or father of the applicant, as the case may be, belongs to Scheduled Tribe but the applicant does not belong to Scheduled Tribe. Thus, in the facts and circumstances, the impugned order is liable to be set aside on the ground that the Petitioner's father was holding the validity certificate for 'Koli Malhar' Tribe and the Petitioner's sister succeeded before this Court in the challenge raised to the invalidation of her Tribe Claim. Hence, we proceed to pass the following order.

ORDER

- [i] The Petition is allowed.
- [ii] The impugned order dated 22.07.2024 passed by Respondent No. 2 – Scrutiny Committee is quashed and set aside.
- [iii] Respondent No. 2 – Scrutiny Committee shall issue Validity Certificate to the Petitioner of belonging to "Koli Malhar" Scheduled Tribe, within a period of two (2) weeks from today.

9. Petition stands disposed off.

[NEERAJ P. DHOTE]
JUDGE

[S. G. CHAPALGAONKAR]
JUDGE