



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

WRIT PETITION NO. 10540 OF 2024

1. Sanket Shankarrao Chinmalwar,
Age 21 years, Occu. Student
2. Sanjay Shankarrao Chinmalwar,
Age 26 years, Occu. Student,
Both R/o. Bapu Nagar, Degloor,
District Nanded .. Petitioners

Versus

1. State of Maharashtra
through its Secretary, Tribal
Development Department,
Mantralaya, Mumbai - 400 032
2. Scheduled Tribe Certificate Scrutiny
Committee, Kinwat Division, HQ :
Chhatrapati Sambhaji Nagar through
its Member Secretary having its office
at Chhatrapati Sambhaji Nagar
3. Watchband College of Engineering
Through its Registrar having its
Office at Vishrambag, Sangli - 416 415 .. Respondents

Mr. Ramchandra K. Mendadkar, Advocate holding for Mr. Sagar S.
Phatale, Advocate for Petitioners (through V.C.);
Mr. S. R. Yadav Lonikar, A.G.P. for Respondents No.1 and 2;

**CORAM : S. G. MEHARE &
SHAILESH P. BRAHME, JJ.**

DATE : 20-02-2025

PER COURT:-

1. Heard both sides finally at the admission stage considering
the exigency in the matter.

2. The petitioners are siblings and they are assailing the judgment and order passed by respondent No.2/scrutiny committee confiscating and invalidating their tribe claim for scheduled tribe "Koli Mahadev".

3. The scrutiny committee rejected their tribe claim discarding the validities of Pooja Shankar Chinmalwar and Santosh Vyankatrao Chinmalwar as well as the school entries of the blood relatives. The school entries of Govind, Vyankat, Ananda, Shankar, Mehatri and Jalaba are castigated as contrary entries and the school entries of Vyankat and Govind are found to be manipulated. Besides this, the scrutiny committee discarded the pre-constitutional record of Jalaba Mogalaji after conducting its scrutiny.

4. The petitioners are relying on the validity certificates of Pooja, their real sister and Santosh Chinmalwar, who is first degree cousin.

5. Mr. R. K. Mendadkar, learned counsel appearing for the petitioners submits that Pooja was issued with validity certificate after following due procedure of law. For that purpose, he places on record the documents showing vigilance report and order of scrutiny committee passed in the case of Pooja. Pooja was issued with validity certificate banking upon the validity of Santosh. He would submit that on the ground of parity, the petitioners are

entitled to receive validity certificates. Pooja was issued a show-cause notice, which is pending for re-verification. He would submit that the petitioners are ready to follow the ratio of ***Shweta Balaji Isankar Vs. State of Maharashtra and others (Writ Petition No.6320 of 2017)***.

6. Per contra, the learned A.G.P. produced the original files of present petitioners, Pooja and Santosh and would support the impugned judgment and order. He would submit that the validity certificates which were pressed into service by the petitioners were rightly discarded by the scrutiny committee. Pooja was issued with the validity certificate by the Committee headed by Mr. V. S. Patil, whose conduct was heavily criticized and castigated in the various matters. He would advert our attention to the statement of Vynkat dated 21.04.2007 mentioning that he was having only one brother Suryakant and two sisters, meaning thereby, the petitioners' father Shankar was not a brother of Vyankat. The genealogy in his matter was incompatible with the tribe claim of the petitioners.

7. The learned A.G.P. would further point out affidavit of Santosh to show his signature doesn't match with signature in his own file. He would vehemently submit that the fraud is apparent on the face of the record considering the statement of Vyankat and signatures of Santosh. There is serious doubt about

relationship. He would submit that fasali record of 1330 of Jalaba Ramaji was duly verified and found to be tampered. It is further submitted that the vigilance committee found incompatible school record since 1966 and tampering of school record also. Under these circumstances, he would pray to dismiss the petition.

8. We have gone through the relevant papers produced by petitioners before us.

9. Santosh is the first validity holder. Banking on his validity, Pooja was issued the validity certificate. We have gone through the vigilance report in Pooja's matter particularly. She withstood affinity test. Thereafter, by a reasoned order, she was issued with validity certificate. In view of the law laid down in the ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti vs. State of Maharashtra and others, 2023 SC Online 326***, Pooja was issued validity certificate after following due procedure of law and it would corroborate the petitioners' claim.

10. The objection of the learned A.G.P. that Mr. V. S. Patil was one of the members of the committee which issued validity of Pooja is concerned, the order of the committee is taken by majority. Therefore, merely because Mr. V. S. Patil was one of the members of the committee would not invalidate the proceedings. We, therefore, cannot approve this submission.

11. We have gone through the original file of Santosh, especially, the statement of Vyankat recorded on 21.04.2007 and the genealogy given by Santosh. Statement of Santosh does not show that the petitioner's father was his brother. However, it reveals from the file of Pooja that the petitioners' father had given the statement as well as the genealogy showing his relationship with Vyankat. Therefore, at this juncture, the inference of fraud cannot be drawn by referring to the statement of Vyankat. We find that there is difference in the signatures of Santosh appearing on affidavit given in Pooja's file as well as his own file, but that too would not be sufficient to draw an inference at this juncture. Since the committee has decided to re-open validity certificate of Pooja, it would be open to the committee to conduct the inquiry to find out as to whether there is a fraud or not. However, the scrutiny committee did not comment on this aspect.

12. So far as pre-constitutional record of Jalaba Ramji Koli is concerned, there is no reason to doubt the findings recorded by committee. However, the petitioners are not relying only on pre-constitutional record. There were other entries on record and two validity certificates. Even if pre-constitutional record is ignored, there is material to corroborate the tribe claim of the petitioners. Unless the earlier validities are revoked, the petitioners cannot be deprived of the same social status. The petitioners have expressed that they are ready to follow the ratio of **Shweta** (*supra*). In that

view of the matter, they are entitled to receive conditional validity. We find that the impugned judgment and order is unsustainable. We, therefore, pass the following order:-

ORDER

- (i) The writ petition is partly allowed.
- (ii) The impugned judgment and order is quashed and set aside.
- (iii) Respondent No.2 / Scrutiny Committee shall immediately issue validity certificate of "Koli Mahadev" scheduled tribe to the petitioners and the same shall be subject to the outcome of proposed reverification by the scrutiny committee.
- (iv) The petitioners shall not claim equities.

[SHAILESH P. BRAHME]
JUDGE

[S. G. MEHARE]
JUDGE