



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 13727 OF 2023

Digambar s/o Sukhdeo Sapkal ... **Petitioner**
Age 35 years, Occu: Service,
R/o Sarola Tq. Sillod Dist. Aurangabad

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Department of Tribal Development,
Mantralaya, Mumbai-32
2. Scheduled Tribes Certificate Scrutiny ... **Respondents**
Committee,
Through its Member Secretary,
Aurangabad
3. The Assistant Commissioner of Sale Tax,
3rd Floor, Old Building,
Goods and Services Tax Bhavan,
Mazgaon, Mumbai-10

Mr. Deepak D. Chaudhari and Mr. Ramesh B. More, Advocates for the
petitioner

Ms. P. J. Bharad, AGP for respondent nos. 1 to 3 State

CORAM : MANGESH S. PATIL &
Y. G. KHOBRADE, JJ.

DATED : 24.04.2025

JUDGMENT (Per: Y. G. Khobragade, J.)

1. Rule. Rule is made returnable forthwith. With the consent of
both the sides, it is heard finally at the stage of admission.

2. By the present petition under Article 226 of the Constitution of India, the Petitioner prays for quashing and setting aside the order dated 20.10.2023, passed by Respondent no. 2 Scheduled Tribes Caste Scrutiny Committee, thereby invalidating “Koli Malhar” Scheduled Tribe claim of the petitioner.

3. We have considered the submissions of the learned Counsel appearing for the respective parties and perused the petition paper book. The learned AGP strongly opposed this petition.

4. The learned Counsel appearing for the petitioner took us through the genealogical tree of the petitioner. As per genealogical tree Dhondiba Sapkal has a son Balwanta. S/shri Pandu, Durgadas, Malaji and Bandu are sons of Balwanta. The Petitioner Digambar s/o Sukhdeo Sapkal is grant-child of Pandu Balwanta Sapkal. Shri Dagduba Bandu Sapkal was having three children i.e. Abhijit, Vaibhav and Sonali. On 25.07.2018, the Coordinate Bench of this Court at Priniciapal Seat passed an order in Writ Petition No. 7490 of 2019 (Vaibhav Dagduba Sapkal-Vs- State of Maharashtra & ors.) and granted conditional validity of “Koli Malhar” Scheduled Tribe subject to outcome of the proceeding for cancellation of validities in favour of the petitioner’s

blood relatives. It is a matter of record that, on 27.20.2021, the coordinate bench of this Court also passed an order in Writ Petition No. 11933 of 2121 (Abjijit Dagduba Sapkal-Vs-State of Maharashtra and others) and in Writ Petition No. 2515 of 2021 (Nilesh Dilip Sapkal-Vs-State of Maharashtra & Ors.) and granted conditional validity certificates in favour of the petitioners paternal blood relatives.

5. Taking into consideration the law laid down in cases of *Mah. Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra & Ors.*; AIR 2023 S.C. 1657, *Shweta Balaji Isankar V/s. State of Maharashtra & Ors.*, 2018 SCC Online Bom. 10341, *Apoorva Vinay Nichale-Vs- Divisional Caste Certificate Scrutiny Committee No. 1 and Ors.*, [2010 (6) Mh. L. J. 401, wherein it has been concluded that when the biological father, biological siblings, biological uncle etc., are granted validity certificates, a candidate so related to them, cannot be deprived of a validity certificate, the present petitioner is entitled to have a certificate of validity.

6. In view of above discussion, present petition deserves to be allowed and impugned order dated 20-10-2023 passed by the

Respondent no. 2 needs to be quashed and set aside. Accordingly, we proceed to pass the following order:

ORDER

- (i) Writ petition is allowed.
- (ii) Impugned order dated 20.10.2023 passed by the Respondent no. 2 is hereby quashed and set aside.
- (iii) Respondent No. 2/Committee shall immediately issue tribe validity certificate in favour of the petitioner as belonging to 'Koli Malhar ' Schedule Tribes, which shall be co-terminous with the validities which the Committee has decided to re-open on the ground of alleged fraud and the petitioner shall suffer the same consequences and will be liable for the same action.
- (iv) Rule is made absolute accordingly.

(Y. G. KHOBRAGADE, J.)

(MANGESH S. PATIL, J.)

JPChavan