

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 997 OF 2022

Snehal Mitthu Walhekar,
Age : 18 years, Occu. : Education,
R/o Islampur, Taluka and
District Ahmednagar. .. Petitioner

Versus

1. The State of Maharashtra
Through its Secretary,
Tribe Development Department,
Mantralaya, Mumbai
2. The Scheduled Tribe Certificate
Scrutiny Committee, Nashik,
through its Member Secretary. .. Respondents

Shri S. S. Jadhavar, Advocate for the Petitioner.
Shri A. S. Shinde, A.G.P. for the Respondent Nos. 1 and 2.

**CORAM : MANGESH S. PATIL AND
SHAILESH P. BRAHME, JJ.
DATE : 07 SEPTEMBER 2023.**

FINAL ORDER (Per Shailesh P. Brahme, J.) :-

- . Heard both sides finally at the admission stage.
2. The petitioner is challenging the judgment and order dated 07.12.2021 passed by the respondent No. 2/Scrutiny Committee invalidating the tribe claim of the petitioner as belonging to 'Koli Mahadev' (Scheduled Tribe) and confiscating the tribe certificate.
3. The petitioner is relying upon the old record and validity certificate of her brother to substantiate her claim.

4. The learned Assistant Government Pleader supports the impugned judgment and order. He would submit that the Scrutiny Committee has rightly rejected the claim because there is no convincing material to support the claim of the petitioner. The old entries would indicate caste of the petitioner and her forefathers as Koli, which is non tribal. There is interpolation in the school record and, therefore, old entries sought to be relied upon by the petitioner are of no avail. He would submit that the validity certificate of Vishwas Mitthu Walhekar is not reliable and it is based upon interpolated entries of 1955. He would further rely upon affinity test.

5. The petitioner has produced on record school leaving certificate of Bajirao Satwaji Walhekar, which is of 1955 wherein caste is shown to be Hindu Mahadev Koli. The school admission extract also discloses the same entry. There is school record of Radhakrushna Satwaji. These entries are old enough to attract greater probative value. These documents were referred to the vigilance enquiry. It can be seen from the original file produced by the learned Assistant Government Pleader that the school record referred above exists. There are no coloured photo copies of these vital entries. It is difficult to infer interpolation in the school record. There is no reason for the scrutiny committee to entertain any doubt about these entries.

6. We find that the school record of Bajirao and Radhakrushan is clinching and the petitioner is entitled to succeed. The reasons assigned by the Scrutiny Committee for

discarding the old school entries is perverse.

7. While examining the papers, we noticed that there is no vigilance enquiry in the matter of brother of the petitioner Vishal. His validity certificate is not useful to decide the caste claim of the petitioner. However, independently there is no material on record to support the petitioner.

8. For the reasons assigned above, we find that the impugned judgment is arbitrary and perverse. We therefore pass following order.

ORDER

A. The writ petition is allowed.

B. The impugned judgment order dated 07.12.2021 passed by the respondent No. 2/Scrutiny Committee is quashed and set aside.

C. The respondent No. 2/Scrutiny Committee shall issue tribe validity certificate to the petitioner as belonging to the 'Koli Mahadev' (Scheduled Tribe) forthwith.

D. The writ petition is disposed of. There shall be no order as to costs.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

bsb/Sept. 23