



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

WRIT PETITION NO. 10373 OF 2024

1. Mayank Kailas Jadhav
under guardian of father namely
Kailas Sahebrao Jadhav
 2. Rohit Yuvraj Jadhav .. Petitioners
- Versus**
1. The State of Maharashtra and another .. Respondents

Shri P. V. Jadhavar, Advocate for the Petitioner.

Mrs. S. S. Joshi, A.G.P. for the Respondent Nos. 1 and 2.

**CORAM : MANGESH S. PATIL AND
SHAILESH P. BRAHME, JJ.**

DATE : 30 SEPTEMBER 2024.

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

. Heard both the sides finally as the petitioners want to prosecute further studies on the basis of social reservation.

2. The petitioners are the cousins who are challenging common judgment and order dated 02.09.2024 passed by the respondent No. 2/Scrutiny Committee thereby confiscating and invalidating their tribe certificates of 'Koli Mahadev' scheduled tribe. They are relying on the validity certificate of Kailas, father of the petitioner No. 1. The old record was verified and found to be genuine while granting him validity. The affinity test has also been recorded favourably. It is submitted that the petitioners are entitled to the validity certificates on the ground of parity.

2. The learned Assistant Government Pleader Mrs. S. S. Joshi supports impugned judgment and order. She tenders on record original papers of the petitioners and the validity holder. She would vehemently submit that the manipulation of the school record of the blood relatives on the large scale was discovered during vigilance. She would point out 34 manipulated entries of the school record. She would also advert our attention to incompatible revenue record since 1953-1954 indicating caste as Koli. It is further submitted that validity of Kailas is rightly discarded by the Committee, as no proper enquiry was conducted in his matter, order of the Committee was non speaking and he was banking on the validity of Pandit Shamrao who was maternal side relative. The learned A. G. P. would strenuously take us through the photo copies of tampered record to justify impugned judgment and order.

3. We have considered rival submissions of the parties. We have also gone through the relevant record from the original papers. The relationship of the petitioners with the validity holder Kailas has not been disputed. In case of Kailas vigilance enquiry was conducted. The school record of paternal side relatives was verified and following entries were found to be genuine :

Sr. No.	Name	Name of the School	Date of admission	Caste recorded	Relationship
1	Jadhav Kailas Sahebrao	Z. P. Primary School Kolwadi, Tq.	25.07.1980	Koli Mahadev	Candidate

		Bhokardan, Dist. Jalna			
2	Jadhav Sahebrao Bhika	Z. P. Primary School, Wadhona, Tq. Bhokardan, Dist. Jalna	25.06.1963	Koli Mahadev	Father
3	Jadhav Trimbak Bhika	-- " --	08.06.1967	Koli Mahadev	Uncle
4	Jadhav Manda Sahebrao	Z. P. Primary School Kothawadi, Tq. Bhokardan, Dist. Jalna	25.06.1986	Koli Mahadev	Sister
5	Jadhav Anil Sahebrao	-- " --	11.07.1988	Koli Mahadev	Brother
6	Jadhav Tukaram Mhatarji	Central Primary School Avhana, Tq. Bhokardan, Dist. Jalna.	29.12.1952	Koli Mahadev	Cousin grand- father

4. The vigilance report further reveals that Kailas could get through the affinity test. We find that there was cyclostyled order passed by the Committee granting him validity with scanty reasons. However, we find that school entries were considered by the Committee. The order of the committee cannot be castigated in this proceeding. The successor committee has no jurisdiction to sit over in appeal to assess validity of Kailas. It may be that for the purpose of proving fraud a separate procedure is contemplated, which the Committee has already proposed. In

that view of the matter for present, we find that the validity of Kailas was issued after following due procedure of law and it is reliable.

5. We have gone through the incompatible school record comprising of as much as 34 entries starting from 1960. We have also gone through few of the manipulated school entries, especially our attention is adverted to photo copy of school record of Sahebrao Bhika Jadhav. But this material is not enough to indicate apparent fraud at this juncture. It reveals that there is no dispute about school entry of Trimbak Bhika Jadhav, which is of 1967 supporting the tribe claim. Unless validity of Kailas is recalled the petitioner cannot be deprived of same social status.

6. The revenue record which is shown by the learned A. G. P. does not have any column of caste. There is doubt as to whether Koli which is appearing in the record is as a surname or caste. Therefore, revenue record cannot be said to be adverse.

7. The reverification is under way. The petitioners are ready to run the risk of facing consequences in view of judgment in the matter of **Shweta Balaji Isankar Vs. The State of Maharashtra and others judgment dated 27 July 2018 in W. P. No. 5611 of 2018**. It is desirable to issue validity certificates to the petitioners conditionally. We, therefore, pass following order.

ORDER

- a. The writ petition is partly allowed.
- b. The impugned judgment and order dated 02.09.2024 passed by the respondent No. 2/Scrutiny Committee is quashed and set aside.
- c. The respondent No. 2/Scrutiny Committee shall issue caste validity certificates to the petitioners as belonging to 'Koli Mahade' Scheduled Tribe immediately in the prescribed proforma.
- d. The validity certificates of the petitioners shall be subject to outcome of the reverification undertaken by the respondent/Scrutiny Committee of the validity holder.
- e. The petitioners shall not be entitled to claim equities.

[SHAILESH P. BRAHME, J.] [MANGESH S. PATIL, J.]

bsb/Sept. 24