

2023 SCC OnLine Bom 1588

In the High Court of Bombay[±]

(BEFORE MANGESH S. PATIL AND SHAILESH P. BRAHME, JJ.)

Sneha, Through power of attorney holder
Babasaheb ... Petitioner;

Versus

State of Maharashtra, Through its Secretary, Tribal
Development Department and Another ...
Respondents.

Writ Petition No. 9479 of 2023

Decided on August 2, 2023

Advocates who appeared in this case:

Advocate for Petitioners : Mr. Sunil Mahadevappa Vibhute

AGP for Respondents : Mr. S.K. Tambe

The Judgment of the Court was delivered by

SHAILESH P. BRAHME, J.:— Rule. Rule is made returnable forthwith with the consent of the parties. Heard respective counsel of the parties.

2. The petitioner is assailing invalidation of her caste claim vide judgment and order dated 31.07.2023, passed by the Scrutiny Committee. The petitioner is relying on the order passed by High Court on 17.12.2020, in Writ Petition No. 8164 of 2020, in the matter of *Asmita Babasaheb Rudre v. State of Maharashtra*. On the ground of parity, the petitioner claims the validity certificate.

3. Learned AGP supports impugned judgment and order. According to him, the Scrutiny Committee has rightly rejected the caste claim considering the contrary entries and manipulation of the school record of the relatives of the petitioner. The affinity test was recorded against the petitioner. He would point out that the validity certificates are not reliable because those were obtained by suppression of material facts.

4. The petitioner has placed on record genealogy which is on page no. 16. Petitioner's father was issued validity certificate. Similarly, petitioner's real sister Asmita was also issued with the validity certificate. The caste validity claim of sister Asmita was rejected. Against that, she had filed Writ Petition No. 8164 of 2020. It was allowed on 17.12.2020, with direction to the Scrutiny Committee to issue validity certificate on a condition. The said order is placed on record. Considering the relevant material, validity certificate was issued to sister. We also propose to adopt the same course.

5. Learned AGP has pointed out that the Committee has proposed to

undertake the re-verification. We are of the considered view that the petitioner is entitled to validity on certain condition. The impugned judgment and order is liable to be quashed and set aside. We, therefore, pass following order:

ORDER

- i. The Writ Petition is partly allowed.
- ii. The impugned order dated 31.07.2023 passed by the respondent no. 2/Scrutiny Committee is quashed and set aside. The Committee, shall immediately issue tribe validity certificate to the petitioner as belonging to 'Koli Mahadev' scheduled tribe, which shall be subject to the decision to be taken by the Committee in the matter which it intends to reopen in respect of the validity holders.
- iii. The petitioner shall not be entitled to claim equities.

† Aurangabad Bench

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