

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

935 WRIT PETITION NO.8232 OF 2019

**GOPAL KISHAN GHIRADKAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...

Advocate for Petitioner : Mr. Sabnis Ameya N
AGP for Respondent Nos. 1 to 3 : Mr. K. N. Lokhande
Advocate for Respondent Nos. 4 & 5 : Mr. Avinash R. Salve

**CORAM : MANGESH S. PATIL &
SANDEEP V. MARNE, JJ.**

DATE : 04.10.2022.

PER COURT :

We have heard both the sides.

2. The petitioner is aggrieved by the order passed by the Caste Scrutiny Committee refusing to validate the caste certificate issued in his favour as belonging to 'Nathjogi ('NT').

3. Learned advocate Mr. Sabnis for the petitioner would submit that the committee has overlooked the validities issued in favour of Dattamilan Jyotinath Ghiradkar and Nitin Jyotinath Ghiradkar who are his cousins in spite of the fact that a genealogy was before the committee as also the affidavit of Dattamilan. The committee has brushed aside those validities for the lame excuse of inability of the petitioner to establish any relation with the validity holders.

4. The learned advocate for the petitioner would further submit that the petitioner should have been given an opportunity to demonstrate the relation between him and the validity holders rather than shunting all the doors.

5. The learned A.G.P. by referring to the files of said Dattamilan and Ramesh would submit that there is variance in the genealogy given by the petitioner and the one to be found in those files as given by Ramesh, who incidentally happens to be a distant cousin of the petitioner who is also a validity holder.

6. We have physically verified the composite file of Ramesh and Dattamilan. The petitioner had filed affidavit of Dattamilan specifically stating his relation with the petitioner but there is absolutely no reference in the judgment of the committee touching this affidavit. Though the learned A.G.P. has now strenuously tried to demonstrate that there is some variance in the genealogy given by the petitioner and the one given by the Dattamilan and Ramesh, we are afraid, this is a new ground being made out by the learned A.G.P. inasmuch the committee has not based its decision on this variance.

7. A bare look at the genealogy given by Ramesh in his case and the genealogy given by Dattamilan in the affidavit filed in his own case, according to us, *prima facie* it cannot be said that the genealogy given by the petitioner and one given by Ramesh and Dattamilan is incompatible.

8. Be that as it may, the committee having not considered all these aspects while rejecting the petitioner's claim and even the order does not demonstrate about it having gone through the affidavit of Dattamilan in his own file as also the one filed by the petitioner, the impugned order is not sustainable in law.

9. In the peculiar facts and circumstances we deem it appropriate to remand the matter for decision by the Scrutiny Committee afresh by extending an opportunity to the petitioner to substantiate his claim regarding relationship with the validity holders and expecting the committee to bear in mind the observations made herein above.

10. We allow the writ petition partly. The impugned order passed by the Scrutiny Committee is quashed and set aside and the matter is remanded back to it for decision afresh on merits without being influenced by any of the observations made herein above touching the scrutiny of the evidence.

11. The petitioner shall appear before the Committee on 11.11.2022 and there shall be no need for it to issue any notice to him.

12. The Committee shall thereafter decide the matter afresh, as early as possible and in any event within twelve (12) weeks from the date of his appearance.

13. The interim relief to continue till the decision of the Scrutiny Committee.

(SANDEEP V. MARNE J.)

(MANGESH S. PATIL, J.)

mkd/-