

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 758 OF 2021

Ganesh S/o Nandkishor Antarp
Age : 28 years, Occu : Student
R/o. Shahid Bahgatsing Chowk
Jawahar Baug, Jalna,
Tq. & Dist. Jalna

.. Petitioner

Versus

- 1] The State of Maharashtra,
Through Principal Secretary,
Tribal Development Department,
Mantralaya, Mumbai – 32
- 2] Scheduled Tribe Certificate
Verification Committee,
Near Saint Lawrence High School,
Town Centre, CIDCO, Aurangabad,
Dist. Aurangabad
Through its Deputy Director (Research)
and Member Secretary
- 3] The Government College of Engineering,
Through its Principal,
Station Road, Aurangabad
Tq. and Dist. Aurangabad

.. Respondents

...
Advocate for petitioner : Mr. C.R. Thorat
AGP for the respondent – State : Mr. A.A. Jagatkar
Respnodents no. 2 and 3 served - absent
...

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

DATE : 19 JUNE 2023

ORAL ORDER (MANGESH S. PATIL, J.) :

Heard the learned advocate for the petitioner and the
learned AGP finally.

2. The petitioner is challenging the order dated 16-12-2020 whereby the respondent no. 2 – Scrutiny Committee has rejected his claim as belonging to Mannervarlu scheduled tribe. Considering the fact that the petitioner has now appeared for the MAH-MBA-MMS-CET-2023 and is aspiring for admission from reserved category, we have taken up this matter for final disposal.

3. The learned advocate for the petitioner would submit that the petitioner's father has been issued with a validity certificate though the committee in the impugned order has expressed its intention to re-open the case to his extent for the reasons mentioned therein. Till date, not even a notice has been served to him, in spite of the impugned order having been passed 2-1/2 years ago. The petitioner cannot be made to suffer for the lapse on the part of the scrutiny committee. If the petitioner's father still possesses the validity certificate, the petitioner should get the benefit irrespective of any other reason.

4. The learned advocate for the petitioner would further submit that there were no contrary entries. The aspect of the petitioner's father in the school record was shown as being 'Telangi' was dealt with by the scrutiny committee and ultimately it granted validity certificate to him. He would further point out that rest of the two contrary entries referred to and relied on by the scrutiny committee are in respect of the school record of paternal aunt and cousin uncle

wherein their caste has been mentioned as Telugu *albeit* there is no tribe by that name. In any case that cannot be treated as a contrary entry. He would further rely upon the observations of the Supreme Court in the matter of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others; 2023 SCC Online SC 326.***

5. The learned AGP submits that the petitioner's father had obtained the validity relying upon the validity of one Ganesh Laleshwar stated to be his distant cousin. However in a statement before the vigilance cell, Ganesh has expressly stated that his grandfather Davalayya had no real brother. He would, therefore, submit that since petitioner's father has obtained the validity by practising fraud, it would vitiate everything including his own validity. The decision would be reached by the committee in due course as has been expressed in the impugned order.

6. We have carefully considered the rival submissions and perused the papers.

7. It does appear that the petitioner's father obtained the validity by relying upon the validity that was granted to Ganesh Laleshwar stated to be his cousin. It is also *prima facie* apparent that before the vigilance cell this Ganesh Laleshwar himself had made a statement that his grandfather Davalayya had no real brother.

However, simultaneously, the original record of the petitioner's father shows that this Ganesh Laleshwar has sworn an affidavit and has even subscribed to the genealogy mentioning that the petitioner is his blood relation. It is, therefore, apparent that this Ganesh Laleshwar at least for the time being on an affidavit is supporting the petitioner's case. If at all, he is telling lies by changing his stance before the vigilance cell, it is a matter to be considered independently. As of now, when this Ganesh Laleshwar claims to be the blood relation of the petitioner and when there is nothing before us to discard his such stand, the validity obtained by the petitioner's father relying upon Ganesh Laleshwar's validity and consequently being relied upon by the petitioner himself would be admissible even if the committee intends to re-open the case of the petitioner's father.

8. Suffice for the purpose to reiterate that the committee has not even issued notice to the petitioner's father for at least 2-1/2 years. It would obviously require a further scrutiny if at all it is visited as has been expressed by the committee in the impugned order. For the time being when the petitioner is claiming validity on the basis of the validity granted to his father and one granted to Ganesh so long as their validities are in force the benefit cannot be denied to the petitioner.

9. This Court has been taking a consistent and practical view in similar set of facts, directing validities to be issued and making them

subject to the outcome of the decision in the matter of validity holders whose cases the committee intends to re-open.

10. The writ petition is allowed partly.

11. Impugned order of the committee is quashed and set aside, in respect of the petitioner. The committee shall issue validity certificate to him as belonging to Mannervarlu scheduled tribe immediately which shall be subject to the decision that would be taken by the committee in the matters of father of the petitioner and Ganesh Laleshwar.

12. The petitioner will not be entitled to claim any equities and tribe claims and the benefits derived by him on that basis would stand revoked automatically if the validity certificates of all the relations are revoked or would stand cancelled.

13. We direct the scrutiny committee to conclude the proceedings wherever they have decided to re-open the validities as expeditiously as possible and in any case within six months.

14. It would be imperative for the petitioner/s as well as his blood relations whose cases are opened or would be opened by the scrutiny committee to co-operate the scrutiny committee in early disposal of such re-opened cases.

15. Any lapse on their part noticed by this Court would be considered seriously and even this Court may revoke the conditional validity granted to the petitioner.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/