

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

WRIT PETITION NO. 680 OF 2022

Pratiksha Ravindra Kadam,
Age : 20 years, Occ : Education,
R/o Balaji Nagar, Aurangabad
Tq. & Dist. Aurangabad. .. Petitioner

Versus

1. Scheduled Tribe Certificate Scrutiny
Committee, Aurangabad,
Through its Member Secretary
2. Dr. Y. S. Khedkar
College of Pharmacy
N-6, Cidco, Aurangabad
Through its Principal. .. Respondents

Shri Sagar S. Phatale, Advocate for the Petitioner.
Shri A. A. Jagatkar, A.G.P. for the Respondent No. 1.

**CORAM : MANGESH S. PATIL AND
SHAILESH P. BRAHME, JJ.
DATE : 19 AUGUST 2023.**

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

. Heard learned counsel for the respective sides. The matter is taken up for final hearing at the admission stage considering the urgency expressed by the learned counsel for the petitioner.

2. The petitioner belongs to Scheduled Tribe 'Thakur'. Her tribe certificate was invalidated by the scrutiny committee by judgment and order dated 15.12.2021. Being aggrieved by the same she has preferred present petition.

3. The petitioner is relying upon the validity certificates issued to her paternal side relatives including Madan, Ashish, Vaishali, Jitendra, Animesh and Prachi as shown in the genealogy which is at page No. 37. She is harping upon the validity certificate of Ashish which was issued in pursuance of the orders passed by this Court in his matter in Writ Petition No. 3632 of 2020.

4. The learned Assistant Government Pleader supports the impugned judgment and order. According to him there was no independent vigilance enquiry conducted in the present matter. There is inconsistency in the genealogy produced by the petitioner and revealed during the enquiry. According to him the validity holders are not at all related to the petitioner or the petitioner's branch. There are contrary entries to indicate the caste which is non tribale. The learned A. G. P. would submit that the old record which is sought to be relied upon by the petitioner, is of the persons not related to the petitioner. According to him the scrutiny committee is justified in rejecting the caste claim considering the contrary entries, affinity test and the misleading information revealed during the enquiry.

5. The learned A. G. P. has produced on record the original files of the petitioner, Ashish Madanrao Kadam, Madan Kishanrao Kadam, Animesh Vasant Kadam. It is further submitted that the scrutiny committee has decided to reopen the validity certificates of the relatives of the petitioner. In the alternative he would urge to remand the matter to the scrutiny

committee to look into the matter which is skipped from the scrutiny.

6. The petitioner has produced on record the genealogy. It shows that Bhikaji had two sons Lobhaji and Maharu. The petitioner falls in the blood line of Maharu. The validity holders are shown to be decedents of Lobhaji. There are six validity holders in the blood line of Lobhaji. Out of them Ashiksh was issued with the validity certificate by the intervention of this Court in Writ Petition No. 3236 of 2020. Apparently, the said validity certificate is binding upon the scrutiny committee.

7. The learned counsel for the petitioner has drawn our attention to the old record which is standing in the name of the relatives Kisan, Manikrao, Anusaya, Vinayak, Vasant, Ramrao and Madan who are falling in the branch of Lobhaji. The old school record is indicating the caste as Thakur. Normally this type of school record is cogent to decide the caste status of the petitioner. However, the learned A. G. P. has raised a serious objection to the genealogies produced on record and the relationship between the petitioner and the validity holders. The submissions are also made by the learned A. G. P. to point out that there is no relation between the petitioner and the persons having old school record.

8. Considering the submissions of the learned A. G. P. we have carefully perused the papers not only of the petitioner, but papers of the other validity holders which are made available before us. At the outset, it is an admitted fact that there was no

independent vigilance enquiry conducted in the matter of the petitioner. The vigilance report prepared in the matter of Ashish Madanrao Kadam is adopted in the present matter. Affidavits of father of the petitioner Ravindra, Animesh and Madan are filed giving a particular genealogy to support her claim. A separate genealogy is signed by the father Ravindra, in the present matter prepared by the vigilance officer. There is genealogy on affidavit filed by Madan in his own matter as well as in the matter of petitioner and Ashish. Considering the genealogies before us, we came across the following startling facts.

- (i) The genealogy given on affidavit by Ravindra, Animesh and Madan in the present matter are inconsistent with genealogy drawn by Vigilance Officer and signed by Ravindra.
- (ii) The genealogy given by Madan in his own matter does not tally with the genealogy presented by the petitioner in the present matter.
- (iii) The branch of the petitioner is completely missing in the genealogy presented by Ravindra, Animesh and Madan. In other words Maharuru in whose blood line the petitioner falls is absent altogether.
- (iv) Considering all the genealogies the existence of Narayan is doubtful, because Narayan is shown to be lineal decedents of Maharuru and one Narayan is shown lineal decedent of Lobhaji. Signatures of Madan appearing on various affidavits are *ex facie* inconsistent and suspicious.

9. The scrutiny committee has not dealt with above referred aspects of the matter. An independent enquiry should have been conducted by comparing genealogies presented by the validity holders in different matters. This was a fit case to refer the matter to the vigilance enquiry on above referred aspects. Instead of that the scrutiny committee preferred to rely upon the vigilance enquiry conducted in the matter of Ashish. We are of the considered view that the scrutiny committee has failed to exercise its jurisdiction vested in it.

10. The inconsistencies which we have noted considering the original papers produced by the learned A. G. P. go to the root of the matter. There are old entries recorded in the name of the persons who are the lineal decedents of Lobhaji. If it is proved that the petitioner being lineal decedent of Maharu is not related with the lineal decedents of Lobhaji, then old record will be of little significance. Similarly the decision of this Court in the matter of Ashik Madanrao Kadam cannot be made applicable to the petitioner unless the nexus between petitioner and Ashish is established. This is the reason why we expect a threadbare enquiry by the scrutiny committee.

11. Considering the old entries and the order of this Court passed in Writ Petition No. 3236 of 2020 in the matter of Ashish Madanrao Kadam Vs. Scheduled Tribe Certificate Scrutiny Committee, Aurangabad, in the fitness of the things we propose to refer the matter back to the scrutiny committee for conducting

an enquiry afresh. It is open for the scrutiny committee to consider the aspect about which we have expressed doubt in aforesaid paragraph as well as any other factual details that would be submitted by the parties. All points are kept open. In this view of the matter we are quashing the impugned judgment and order.

12. For the reasons recorded above, we pass following order.

ORDER

- a. The writ petition is partly allowed.
- b. The impugned judgment and order is quashed and set aside.
- c. The matter is relegated to the respondent No. 1/Scrutiny Committee for conducting an enquiry afresh. All points are kept open.
- d. After remand an enquiry shall be completed as expeditiously as possible and in any case within a period of three (03) months from today.
- e. The writ petition is disposed of.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]