

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

Writ Petition No. 2599 / 2022

Rohit s/o Dnyanoba Garud,
Age 25 years, Occu. Education,
R/o.Lohgaon, Tq. And Dist. Parbhani.

...Petitioner

Versus

1. State Common Entrance Test Cell,
Maharashtra, Mumbai,
8th floor, New Excelsior,
A.K. Nayak Marg, Fort, Mumbai.

2. The Scheduled Tribe Certificate
Scrutiny Committee, Aurangabad,
Through its Member Secretary.

...Respondents

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Mr. Sagar S. Phatale, Advocate for the Petitioner
Mr. M. D. Narwadkar, Advocate for Respondent No.1
Mr. A. S. Shinde, AGP for Respondent No.2/State

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CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.
DATE : 13 JULY, 2023.

FINAL ORDER [PER : SHAILESH P. BRAHME, J.] :

. Heard both the sides. The matter is taken up for final disposal
at the admission stage.

1. The petitioner is challenging common judgment and order dated 04/02/2022 passed by the respondent no.2/Scrutiny Committee, invalidating his caste claim for scheduled tribe 'Thakur'. The Scrutiny Committee invalidated the claim of Sacchiddanand and Ganeshwari alongwith the petitioner in the impugned judgment.
2. The petitioner relies upon the order dated 09.02.2022 passed by the High Court in Writ Petition No.2004/2022 in case of co-applicant, Sacchiddanand. He further relies upon the validity certificate issued in favour of his real sister, Vaishnavi, Neha, Vrushali. The vigilance report in the matter of Dnyanoba whose caste claim was validated, which is placed on record. There are further documents of school record/affidavits to support the claim of the petitioner.
3. The learned AGP submits that there is no illegality or perversity in the impugned judgment and order. Due to the contrary entries and incompatible school record, the Scrutiny Committee invalidated the claim. The place of residence of the petitioner and her ancestors is also found to be incompatible. After the vigilance enquiry, it revealed that school record of the close relatives was found to be bogus.

4. It is further submitted by the learned AGP that the validity certificates of the relatives do not inspire confidence. They are founded on manipulation suppression of true facts and disputed relations. The affinity test also does not support the petitioner.

5. We are impressed by the clinching material produced on record by the petitioner in the form of validity certificate issued to Sacchiddanand, real brother of the petitioner. The same was issued in pursuance of orders passed by the High Court in Writ Petition No.2004/2022. Due procedure is found to be adopted in case of validity holders, Dnyanoba, Vaishnavi, Neha. There is no reason to take a contrary view.

6. In view of the guidelines of the Supreme Court in the matter of **Maharashtra Adavasi Thakur Jamat Swarakshak Samiti vs. State of Maharashtra & others** reported in 2023(2) Mh.L.J.785, the claim of the petitioner deserves to be allowed on certain conditions. We also noticed that there is an order passed by the High Court in the matter of Kunal s/o Jintendra Garud in Writ Petition No.7460/2018, which is also relevant.

7. We are of the considered opinion that the Scrutiny Committee committed illegality in rejecting the caste claim.

8. It is a matter of record that Vaishnavi, real sister of the petitioner was issued validity after intervention of the High Court in Writ Petition No. 2531/2021 vide order dated 09.02.2022.

9. For the reasons assigned above, we pass the following order.

ORDER

- (i) The writ petition is partly allowed.
- (ii) The judgment and order dated 04/02/2022 passed by the respondent no.2/Scrutiny Committee, is quashed and set aside.
- (iii) The Scrutiny Committee shall issue validity certificate in favour of the petitioner for 'Thakur' within a period of two weeks on following conditions that;
 - [a] the validity certificate shall be subject to the outcome of the revocation/ cancellation proceedings of validity certificates of the close relatives of the petitioner as proposed by the Scrutiny Committee.
 - [b] the petitioner shall not claim any equity.
 - [c] the petitioner shall cooperate with the Scrutiny Committee.
- (iv) In view of above terms, the writ petition is disposed of.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]