

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

Writ Petition No. 2520 / 2022

Dinesh s/o Bhagawan Choudhari,
Age 18 years, Occu. Education,
R/o. At Post Malegaon, Tal. Nilanga,
Dist. Latur.

...Petitioner

Versus

1. Commissioner and Competent Authority,
State CET Cell,
Maharashtra State, Mumbai
CET Cell (DMER), Opp. Govt. Dental College,
St. George's Hospital Campus,
Fort, Mumbai.

2. The Scheduled Tribe Certificate
Scrutiny Committee, Kinwat
Functioning at Aurangabad,
through its Member Secretary.

...Respondents

Mr. Mahesh S. Deshmukh h/f Mr. Sagar S. Pathale, Advocates for the Petitioner.

Mr. A.S. Shinde, AGP for Respondents/State

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

DATE : 20 JULY 2023.

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

. Heard both the sides finally.

1. The petitioner is challenging judgment and order dated 08.02.2022 passed by the respondent no.2/Scrutiny Committee, invalidating his claim for scheduled tribe 'Rajgond'. He is relying upon the validity certificate issued to his real brother Ashish and sister Akshata.

2. The learned Advocate for the petitioner would submit that the caste certificate of Ashish was invalidated by order dated 01.09.2017. Being aggrieved, Ashish had filed Writ Petition No.10388/2017. By order dated 05.10.2017, the petition was allowed and validity certificate was directed to be issued without imposing any condition.

3. The learned AGP supports impugned judgment and order. According to him, the Scrutiny Committee considered the relevant contrary entries of the blood relatives of the petitioner in which the caste was recorded to be 'Telang'. The manipulation of the record of the close relatives was also noticed. According to him, therefore the caste claim was rightly rejected.

4. He would further submit that the validity certificates produced on record, were suspicious and obtained without following due procedure of law. The caste certificate of uncle Satyawand was invalidated. The order was confirmed by the High Court. He would also support the finding in the affinity test.

5. The petitioner has produced genealogy on record. His relationship with the validity holders is not disputed. His real brother and sister were issued with the validity certificates. His brother

Ashish, was issued with the validity without any condition. Whereas his sister Akshata, was issued with the validity on certain conditions. We do not find any reason for depriving the petitioner from deriving the benefit of the validity certificates.

6. The Scrutiny Committee has decided to reopen the cases of the validity holders. The petitioner can be granted validity certificate subject to the outcome of the cases to be reopened.

7. The Scrutiny Committee has committed patent illegality by the impugned judgment and order. For the reasons stated above, we pass the following order:

ORDER

- (i) The writ petition is partly allowed.
- (ii) The judgment and order dated 08.02.2022 passed by the respondent no.2/Scrutiny Committee, is quashed and set aside.
- (iii) The Scrutiny Committee shall issue validity certificate to the petitioner of scheduled tribe 'Rajgond' within a period of two weeks on following conditions :
 - [a] the validity certificate shall be subject to the outcome of the re-verification of the cases of the validity holders being reopened.
 - [b] the petitioner shall not claim any equity.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]