

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

WRIT PETITION NO. 2874 OF 2022

**NISHA VENKATRAO GAWARWAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Advocate for Petitioner : Mr. S.M. Vibhute
AGP for Respondent Nos. 1 to 3 : Mr. P.S. Patil
Advocate for Respondent No. 4 : Mrs. V.S. Choudhari

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

DATE : 12 JULY 2023

PER COURT (PER : SHAILESH P. BRAHME, J.) :

1. Heard both sides.
2. The petitioner is challenging the judgment and order dated 31 January 2022, passed by the Scrutiny Committee, invalidating her claim for 'Mannervarlu' scheduled tribe. The petitioner relies upon the validity certificate of her brother Nikhil and father Venkatrao. She has further relied upon the reply to the vigilance report, affidavit and genealogy. Additionally, at the time of hearing the petitioner has produced on record the vigilance report of her brother – Nikhil.
3. The caste claim was invalidated by the Scrutiny Committee because there were contrary entries of blood relatives. The

school record of the grandfather of the petitioner – Sabanna was found to be bogus and forged. In the further enquiry, it was revealed that grandfather was never a student of Pratibha Niketan School. There was a tampering of school record of grandfather. The place of residence of the ancestors of the petitioner was incompatible with the caste status.

4. It was also recorded by the Scrutiny Committee that the affinity test was against the petitioner. The validity certificates were unreliable. Those were procured on the basis of the school record of the grandfather – Sabanna. The validity certificates were obtained by suppressing material facts.

5. Learned AGP would support the impugned judgment and order. He draws our attention to the school entry of grandfather – Sabanna Gangaram Gawarwar. When the Vigilance Officer conducted enquiry in respect of the original school record, it was revealed that the relevant pages of the school register were missing. There was no entry of Sabanna. According to him, this is clear fraud committed by grandfather and which is perpetuated and has resulted in issuing validity certificates to father and brother of the petitioner. He further submits that the Vigilance Officer Mr. Andhale, was in collusion with

the petitioner and her brother.

6. We have gone through the vigilance report prepared in the case of validity holder Nikhil. The enquiry in respect of customs and traditions was consistent with the claim of the petitioner. The affinity test was recorded in favour of validity holder Nikhil. Nikhil was granted validity certificate after following due procedure of law. Father of the petitioner was also issued caste validity certificate. Therefore, we are inclined to accept validity certificates of Nikhil and petitioner's father Venkantrao in view of the ratio laid down by the Supreme Court in the matter of [Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Versus State of Maharashtra and Others](#), 2023 SCC Online SC 326.

7. So far as the allegations of forgery and bogus record of grandfather – Sabanna is concerned, we cannot comment on it at this juncture. Those allegations are required to be established by following due procedure of law. Learned AGP informs that the Scrutiny Committee has proposed to reopen the matter of father of the petitioner. A show cause notice is issued. The Scrutiny Committee may have a right to proceed against doubtful validity holders. But that would not detain us from issuing conditional validity in favour of petitioner.

8. The impugned judgment and order is arbitrary and discriminatory. The same is liable to be quash and set aside. We, therefore, pass following order :

i. The judgment and order dated 31 January 2022, passed by the Scrutiny Committee, invalidating the claim of the petitioner is quash and set aside.

ii. The Scrutiny Committee shall issue caste validity certificate in favour of the petitioner for ‘Mannervarlu’ scheduled tribe within a period of two weeks from today, on following conditions :

a. That the validity certificate shall be subject to further scrutiny for revocation or cancellation of the validity certificate of the father of the petitioner as proposed by the Scrutiny Committee.

b. That the petitioner shall not claim any equity.

c. That the petitioner shall cooperate with the Scrutiny Committee in the enquiry proposed to be reopened.

d. That the Scrutiny Committee shall conclude the proposed enquiry of the validity certificate of the father within a period of six months.

iii) The Writ Petition is allowed in above terms and there shall be no order as to costs.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

spc/-