

Corrected order
Corrections have been made as per speaking to minutes order
passed on 01.11.2023

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3041 OF 2023

Kavita d/o Bhagwan Wagh,
Age-35 years, Occu. : Housewife,
R/o Plot No. 7, Indira Housing
Society, Deopur, Dhule,
Tq. & Dist. Dhule. .. Petitioner

Versus

1. The State of Maharashtra,
Department of Tribal Development,
Mantralaya, Mumbai- 32.
Through its Secretary.
2. The Scheduled Tribe Certificate
Scrutiny Committee, Dhule
Division, Dhule,
through its Member Secretary. .. Respondents

Shri S. C. Yeramwar, Advocate for the Petitioner.
Shri S. B. Yawalkar, Addl.G.P. for the Respondent Nos. 1 and 2.

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

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

. Heard learned counsel for both sides finally at the admission stage.

2. The petitioner is challenging the judgment and order dated 22.12.2022 passed by the respondent No. 2/Scrutiny Committee thereby invalidating her tribe claim of 'Thakur' (Scheduled Tribe) and confiscating the tribe certificate.

3. The petitioner seeks to rely on the validity certificates of Saniket Sambhaji Wagh, Rutuja Deepak Wagh, Kunal Bhagwan Whag, etc. The learned counsel for the petitioner submits that Saniket and Rutuja were issued with the validity certificates in pursuance of the orders passed by this Court in different proceedings. He would submit that when self same record is already scrutinized, it is an error of jurisdiction to reject her caste claim.

4. Per contra, the learned Additional Government Pleader supports the impugned judgment and order. He would submit that the Scrutiny Committee has rightly considered the old entries and entertained doubt about the social status of the petitioner. The observations of the Committee in respect of area restriction and the affinity test are legal and proper. The validity certificates are rightly discarded by the Committee. There is no error apparent on the face of the record or any perversity in the impugned judgment and order.

5. We have considered the submissions of the rival parties. We have gone through the genealogy produced by the petitioner showing her relationship with the validity holders Rutuja Deepak, Kunal Bhagwan and Saniket Sambhaji. The petitioner

places reliance upon the old record of Dungal Uttam Thakur, Rajaram Dungal Wagh, Chandrakala Dungal Wagh, etc. to support her claim. The record of Dungal Uttam Thakur is of 1934 having great probative value. The self same record was already considered on the previous occasion while issuing validity certificates to the relatives stated above. We find that the petitioner has made out case for issuing validity certificate.

6. There is no dispute that Saniket and Rutuja were issued with the validity certificates in pursuance of orders passed by the High Court on different occasions. We have every reason to believe that the validity certificates are secured by following due procedure of law. On the ground of parity, the petitioner is entitled to the validity certificate.

7. In the matter of Rutuja Deepak Wagh Vs. The State of Maharashtra and another in Writ Petition No. 11750 of 2023, by our order dated 20.09.2023, Committee was directed to issue validity certificate to her without incorporating any condition. In the case of Saniket Sambhaji Wagh, while directing to issue validity certificate condition was incorporated.

8. We find that the judgment and order impugned is unsustainable. We therefore pass following order.

O R D E R

A. The writ petition is allowed.

B. The impugned judgment and order dated 22.12.2022 passed by the respondent No. 2/Scrutiny Committee is quashed and set aside.

C. The respondent No. 2/Scrutiny Committee shall immediately issue certificate of validity to the petitioner of 'Thakur' (Scheduled Tribe).

D. The writ petition is disposed of.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

bsb/Oct. 23