

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

Writ Petition No. 5760 of 2021

Sham Sheshrao Garud

Age : 33 years, Occu.: Education,

R/o Daithana, Tq. & Dist. Parbhani

...Petitioner

Versus

1. The Scheduled Tribe Certificate
Scrutiny Committee, Dist. Aurangabad
through its Member Secretary.

3. Jotiba Shikshan Sanstha's
N.T.S. College of Education
Shivram Nagar, Parbhani, Dist. Parbhani
Through its Principal.

...Respondents

Mr. Sagar S. Phatale, Advocate for the Petitioner.

Mr. S.B. Yawalkar, Addl.GP for Respondent No.1/State.

Mr. Sachin S. Deshmukh, Advocate for Respondent No.2.

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

DATE : 16 OCTOBER 2023.

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

1. Heard both the sides finally at the admission stage.

2. The petitioner is challenging the judgment and order dated 15.01.2021 passed by the respondent no.1/Scrutiny Committee, invalidating his tribe certificate of 'Thakur' scheduled tribe and confiscating it. The petitioner seeks to rely upon number of validity certificates in his family. Learned Counsel for the petitioner submits that few of the validity certificates are issued in pursuance of the

order passed by the High Court. The impugned judgment and order is discriminatory. He has placed on record the order passed by the High Court in the matter of Kunal and Shruti.

3. Per contra, learned AGP supports impugned judgment and order. According to him, the Scrutiny Committee has rightly discarded the claim of the petitioner in view of the manipulation in the school record of Tulsidas, Vilas, Manoj, Baliram and Vasant. He further submits that though the record of few relatives indicates caste as Thakur, the petitioner failed to prove that it was Thakur scheduled tribe. He supports the finding recorded on area restriction and affinity test. He would urge to dismiss the petition.

4. Our attention is invited to genealogy which is at page no.39. We find that there are number of validity holders in the family of the petitioner. All the validity holders are paternal side relatives. This position has not been disputed by the learned AGP. Out of them, Kunal was issued with validity certificate by the intervention of the High Court. Similarly Nivrutti was issued with validity certificate by the judgment which is at page no.27. Shruti was also issued with tribe certificate in pursuance of the judgment and order which is at page no.69.

5. After considering selfsame record, the validity certificates are issued in pursuance of the order passed by the High Court. There are other validity holders in the family of the petitioner. Therefore, it is not open for the Scrutiny Committee to deprive the petitioner from the same social status. We hold that the impugned judgment and order is discriminatory and perverse. It is open for the Scrutiny

Committee to conduct re-verification and to find out any element of fraud. Unless the validity certificates are revoked, the petitioner cannot be denied validity certificate. We have no hesitation to hold that the petitioner has made out a case for validity certificate to be issued on certain conditions.

6. We, therefore, pass the following order.

ORDER

- (i) The writ petition is partly allowed.
- (ii) The judgment and order dated 15.01.2021 is quashed and set aside.
- (iii) The Committee shall immediately issue tribe validity certificate of 'Thakur' scheduled tribe to the petitioner which shall be subject to the outcome of re-verification intended by the Committee.
- (iv) The petitioner shall not be entitled to claim equities.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]