

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

WRIT PETITION NO. 3552 OF 2020

Prachi D/o Sanjayrao Modwan
Age : 25 years, Occu.: Education
R/o Kasar Galli, Mudkhed
Tq. Mudkhed Dist Nanded
At present, Swami Samarth Nagar
Old Jalna Ambad Road,
Jalna Tq. & Dist. Jalna .. Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary,
Medical Education and Drugs Department,
Mantralaya, Mumbai.
2. The Scheduled Tribe Caste Certificate
Verification Committee Aurangabad,
Through its Dy. Director (R),
Aurangabad.
3. The Dean
Government Medical College,
Aurangabad, Dist. Aurangabad.
4. The Registrar,
Maharashtra University of Health
Sciences, Dindori Road, Mhasrul/
Nashik, District-Nashik.
5. The Commissioner & Competent
Authority, Commissionerate of
Common Entrance Test Cell,
Government of Maharashtra,
8th Floor, New Exelsior Building,
A. K. Naik Marg, Fort,
Mumbai. .. Respondents

Shri Sunil M. Vibhute, Advocate for the Petitioner.
Shri S. G. Sangle, A.G.P. for the Respondent Nos. 1 to 3.
Shri D. P. Deshpande, Advocate for the Respondent No. 4.

**CORAM : MANGESH S. PATIL AND
SHAILESH P. BRAHME, JJ.
DATE : 01 AUGUST 2023.**

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

. Heard both the sides for final adjudication at the admission stage considering the urgency in the matter.

2. The petitioner is challenging the judgment and order dated 26.02.2020 passed by the respondent No. 2/Scrutiny Committee thereby invalidating her caste claim of 'Mannervarlu' (Scheduled Tribe) and confiscating her tribe certificate.

3. The petitioner is relying on five validity certificates issued in favour of paternal side close relatives.

4. The learned Assistant Government Pleader supports the impugned judgment and order. According to him the Scrutiny Committee has considered the material on record in correct perspective and arrived at plausible conclusion. The school record was found to be tampered. The validity certificates were not reliable. The affinity test was also recorded against the petitioner.

5. We have considered the submissions of the learned counsel

for the respective parties. We are shown original record of the petitioner and her father. The genealogy produced on record discloses that the validity certificates were issued to Sanjay Dattatraya Modwan, Gajanan Dattatraya Modwan, Sandip Sanjay Modwan and Pratik Sanjay Modwan. In case of petitioner's father there was vigilance report followed by an order of validity. Similar is the case with real brother of the petitioner. We hold that due procedure was followed before issuing caste validity certificates. The petitioner is also entitled to receive the validity certificate.

6. The Scrutiny Committee has decided to reopen the validity certificates. The submissions of the learned A. G. P. which are made by drawing our attention to the original papers can be looked into by the Committee at the time of reverification of the validity certificates. We restrain ourselves from commenting upon the same. However, we can grant conditional validity to the petitioner, instead of absolute one. The impugned judgment and order is discriminatory and arbitrary.

7. For the reasons recorded above, we dispose of the writ petition by passing the following order.

O R D E R

A) The writ petition is partly allowed. The impugned order is quashed and set aside. The respondent/Scrutiny Committee shall immediately issue tribe validity certificate to the petitioner

as belonging to 'Mannervarlu' (Scheduled Tribe), which shall be subject to the decision to be taken by the committee in the reopened matters.

B) The petitioner shall not be entitled to claim equities.

[SHAILESH P. BRAHME, J.] [MANGESH S. PATIL, J.]

bsb/Aug. 23