

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

WRIT PETITION NO. 4378 OF 2022
WITH
CIVIL APPLICATION NO. 11177 OF 2022

RAJAT HANUMANT MALI
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr. C.R. Thorat
AGP for Respondent Nos. 1, 2 & 4 : Mr. S.G. Sangale
Advocate for Respondent No. 3 : Mr. Mehul V. Navandar
...

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

DATE : 12 SEPTEMBER 2023

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

1. Heard both the sides finally.
2. Being aggrieved by the judgment and order dated 24.01.2022, passed by Scrutiny Committee, invalidating the tribe claim of the petitioner and confiscating the same, present petition is filed. The petitioner seeks to rely upon the validity certificates of his sister Harshada, Chandrakant and the school record of the close relatives.
3. Learned AGP supports impugned judgment and order. He would submit that the Scrutiny Committee has rightly rejected the caste claim considering the school record of Chandrakant, Suryakant and Hanumant, which was incompatible with the tribe claim. He would submit that there was interpolation in the school record of Suryakant,

Chandrakant and Hanumant. The Committee is justified in discarding the validity certificate which was issued by suppressing the contrary record and interpolation. He would further point out that the paternal aunt Nagmani's tribe certificate was invalidated which is not disclosed.

4. Learned AGP has placed on record the original papers of the petitioner. It is further informed that the Scrutiny Committee has undertaken re-verification of the validity certificates of the relatives of the petitioner.

5. Learned counsel for the petitioner has invited our attention to the genealogy which is at page no. 69. There is no serious dispute about the relationship of the petitioner with the validity holders and other relatives. Chandrakant Rachappa Pergulwar is the cousin grandfather of the petitioner who was issued with validity certificate by the appellate authority on 09.09.1993. There is school admission extract of Suryakant Rachappa Pergulwar indicating caste as 'Mannervarlu', of 1953. The school record of the father of the petitioner and aunt of the petitioner indicates caste as 'Mannervarlu'.

6. The petitioner is relying upon the validity certificate of her sister Harshada. There is no dispute that vigilance enquiry was conducted. The original papers disclose the enquiry report indicating consideration of old record of Babanna and Hanumant. She was issued with validity certificate by speaking order of the Scrutiny Committee.

The contrary record was considered and the tribe claim was accepted which is evident from the original papers of Harshada. We find that by following due procedure of law validity certificate was issued to Harshada. It should enure to the benefit of the petitioner.

7. The validity certificate of Harshada cannot be faulted with because there was adequate material to validate her claim. The Scrutiny Committee has erroneously recorded that by suppressing material fact she was issued with validity certificate.

8. The findings of the Scrutiny Committee that an order of invalidation of tribe certificate of the aunt of the petitioner, Nagmani was suppressed and validity certificate of Harshada is unreliable are perverse. An enquiry into caste status is an individual centric. Its result depends upon the material produced on record. It cannot operate as *res judicata*. Therefore, an order of invalidation is inconsequential.

9. We find that the Scrutiny Committee has committed perversity in discarding the caste claim. The petitioner cannot be denied the validity certificate unless earlier validity certificates in the family are revoked.

10. For the reasons stated above, we hold that impugned judgment and order is liable to be quashed and set aside. We, therefore, pass following order :

ORDER

- i. The Writ Petition is partly allowed.
- ii. The impugned judgment and order dated 24.01.2022, passed by the Scrutiny Committee, is quashed and set aside.
- iii. The 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 matters which it intends to reopen in respect of the validity holders.
- iv. The certificate of validity shall be issued in the prescribed format without incorporating other conditions /additions.
- v. The petitioner shall not be entitled to claim equities.
- vi. Pending Civil Application also stands disposed of.

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