

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

**Writ Petition No. 3670 / 2022**

Rutuja Eranna Kongalwar,  
 Age 18 years, Occu. Education,  
 R/o. Row House No.19,  
 Sai Vihar, Khadgaon Road,  
 Tq. and Dist. Latur.

**...Petitioner**

**Versus**

1. State Common Entrance Test Cell,  
 Maharashtra, Mumbai,  
 8<sup>th</sup> Floor, New Excelsior,  
 A. K. Nayak Marg, Fort, Mumbai,  
 Through its Commissioner and  
 Competent Authority.
2. The Scheduled Tribe Caste Certificate  
 Verification Committee, Kinwat  
 (Headquarter at Aurangabad)  
 Through its Member Secretary.

**...Respondents**

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 Mr. B. L. Sagar Killarika and Mr. U. P. Giri i/by Mr. C.D. Biradar,  
 Advocates for the Petitioner.

Mr. S. K. Tambe, AGP for Respondent No.2/State

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

**DATE : 27 JULY 2023.**

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

. Heard both the sides for final disposal.

1. The petitioner claims to be member of scheduled tribe 'Mannervarlu'. Her caste certificate was referred to the Scrutiny Committee. By order dated 10.02.2022, the caste certificate was invalidated and confiscated by the respondent no.2/Scrutiny Committee. Being aggrieved by the order, the petitioner has filed present writ petition.

2. The petitioner is mainly relying upon the validity certificates issued to her close relatives namely Balaji, Eranna, Chaitannya, Ulhas and more specifically Shrikant Bhimrao Gongalwar. Reliance is also placed on the judgment of the High Court in the case of Shrikant Bhimrao Kongalwar passed in Writ Petition No. 107/2010 as well as genealogy, vigilance enquiry report, reply, validity certificates and extract of the school record etc.

3. The learned AGP supports the impugned judgment and order. According to him, there was no clinching evidence before the Scrutiny Committee in support of the claim of the petitioner. The school record was found to be incompatible with the claim of the petitioner. The affinity test was also resulted against the petitioner. The validity certificate of the close relatives were suspicious and obtained by suppressing material facts. It is further informed that the Scrutiny Committee has decided to reopen the matters of the validity holders. According to him, the Scrutiny Committee has taken reasonable and plausible view which may not be interfered with in a writ jurisdiction.

4. We have noticed that the genealogy is placed on record, which is undisputed. There are many validity holders in the close relations of the petitioner, which are enumerated at page no.80 which is part of the impugned order. Unless and until the validity certificates are revoked, we don't have any alternative than to rely upon the same. We are guided by principles laid down by the Supreme Court in paragraph nos. 22 to 24 of judgment in case of **Maharashtra Adavasi Thakur Jamat Swarakshak Samiti vs. State of Maharashtra & others** reported in 2023(2) Mh.L.J.785.

5. The learned AGP submits that there is a manipulation in the school record in case of Ulhas, Sushila, Bhimrao which was rightly appreciated by the Scrutiny Committee.

6. We find that the validity certificates have not been revoked till this date. We further find that invalidation of the caste certificates of Shailesh Bhimrao Kongalwar and Bhimrao Eranna Kongalwar cannot be the ground to refuse validity to the petitioner. It is not demonstrated on what ground and on the basis of which material the invalidation orders were passed. The social status of an individual cannot be determined by the orders of invalidation passed earlier in respect of other individuals even if they are relatives of the claimant.

7. The learned Counsel for the petitioner draws our attention to the matter of Shrikant Bhimrao Kongalwar. Shrikant is the paternal side relative of the petitioner. His caste claim was invalidated. Against that

he had preferred Writ Petition No.107/2010. By order dated 12.08.2011, the petition was partly allowed and the matter was remanded to the Scrutiny Committee. Vital document was considered in that matter which was of pre-independence period i.e. 1948. Later on he was issued validity certificate.

8. During the course of hearing, the learned Counsel for the petitioner places on record certain documents showing orders passed by the Scrutiny Committee validating caste claims of the close relatives of the petitioner namely Balaji Mashnaji Kongalwar, Sneha Bhimrao Kongalwar, Shrikant Bhimrao Kongalwar. The Scrutiny Committee has on different occasion upheld the tribe claim of the close relatives of the petitioner considering all aspects of the matter. In that view of the matter we find that the petitioner has made out a case for invoking the principles of parity for conferring the social status.

9. The learned Counsel for the petitioner has pointed out the old document of 1948 which is having greater probative value. The same is clinching piece of evidence to issue the validity certificate to the petitioner. The impugned judgment and order is unsustainable. We therefore, allow this petition by passing following order.

### **ORDER**

- (i) The judgment and order dated 10.02.2022 passed by the respondent no.2/Scrutiny Committee, is quashed and set aside.

- (ii) The Scrutiny Committee shall issue tribe validity certificate in favour of the petitioner for 'Mannervarlu' within a period of two weeks which shall be subject to the conditions that;
- [a] the validity certificate shall be subject to the outcome of the re-verification proposed to be undertaken by the Scrutiny Committee.
  - [b] the petitioner shall not claim any equity.
- (iii) In view of above terms, the writ petition is disposed of.

**[SHAILESH P. BRAHME, J.]**

**[MANGESH S. PATIL, J.]**