

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

WRIT PETITION NO. 3769 OF 2023

Abhishek S/o Sunil Nikam,
Age : 20 years, Occu. : Education,
R/o Wanegaon, Tq. Phulambri,
Dist. Aurangabad. .. Petitioner

Versus

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

Shri Sagar S. Phatale, Advocate for the Petitioner.
Shri A. A. Jagatkar, A.G.P. for the Respondent sole.

**CORAM : MANGESH S. PATIL AND
SHAILESH P. BRAHME, JJ.
DATE : 13 SEPTEMBER 2023.**

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

- . Heard both the sides for final disposal of the writ petition.
2. Being aggrieved by the judgment and order dated 02.11.2022 invalidating the tribe claim of Thakur (Scheduled Tribe) the petitioner has filed the present writ petition.
3. The petitioner is relying upon number of validity certificates issued in his family. Many of them were issued validity certificate in pursuance of the orders passed by the High Court. According to the petitioner the self same record was

scrutinized, verified and considered by the previous scrutiny committees as well as by this Court on different occasions, which would enure to the benefit of the petitioner. According to him the scrutiny committee has committed perversity in rejecting the caste claim.

4. The learned Assistant Government Pleader would oppose the claim of the petitioner. According to him the scrutiny committee has considered the school record which is found to be incompatible with the caste claim of the petitioner and rightly rejected the caste claim. The validity certificates which are pressed into service are rightly discarded. He would submit that there is material on record to suggest that the caste of the petitioner is non tribal and the material on record is misleading. He would also rely upon the affinity test which is recorded against the petitioner. The learned A. G. P. has prayed that the petition has no merit and it is liable to be dismissed.

5. The learned counsel for the petitioner has invited our attention to the genealogy which is at page No. 81. The relationship of the petitioner with the persons figuring in the genealogy is not disputed. It can be seen from the genealogy that every branch of Sakharam has validity holders. Vitthal S/o Sakharam is not shown to have any issue which is an exception. Otherwise the vigilance enquiry reports, orders of the Scrutiny Committees and validity certificates upon which the petitioner seek reliance show his relationship with them.

6. We have seen that there is voluminous record to support the claim of the petitioner. The old school and revenue record is corroborating the case of the petitioner. Few of the entries are of preconstitutional period having greater probative value. The self same record is considered by the previous committees to issue validity certificates to the relatives of the petitioner. It is not permissible for the present scrutiny committee to arrive at contrary finding. We find that the Scrutiny Committee has committed grave error of jurisdiction in rejecting the caste claim of the petitioner.

7. It transpires from the record that number of relatives of the petitioner were issued with the validity certificates by virtue of the orders passed by this Court. In one of the judgments of this Court which is at page No. 182 rendered in Writ Petition No. 2686 of 2022 in the matter of Aishwarya Rajendra Nikam Vs. Scheduled Tribe Certificate Scrutiny Committee in paragraph No. 3 the details of the proceedings of the High Court in which validity certificates are issued are mentioned. We find that the validity certificates produced on record are reliable. We also propose to adopt the same course as it was adopted by this Court in earlier matters. The Committee erred in discarding the validity certificates produced by the petitioner to support his claim.

8. It is noticed that in case of the few of the blood relatives of the petitioner the directions to issue validity certificates were issued without incorporating any condition. Though it is

expressed in the impugned judgment that the scrutiny committee is intending to reopen the cases of the validity holders, the learned A. G. P. has not informed any progress of the reverification. We are of the considered view that the petitioner is entitled to validity certificate. The impugned judgment and order is unsustainable. We therefore pass following order.

ORDER

- i. The Writ Petition is allowed.
- ii. The impugned judgment and order dated 02.11.2022, passed by the Scrutiny Committee, is quashed and set aside.
- iii. The respondent No. 2/Scrutiny Committee shall immediately issue tribe validity certificate to the petitioner as belonging to 'Thakur' scheduled tribe.
- iv. Accordingly, writ petition is disposed of. There shall be no order as to costs.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

bsb/Sept. 23