

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

WRIT PETITION NO. 4350 OF 2023

1. Om s/o Balaji Pupalwad,
Age : 20 Years, Occu. : Student,
R/o At Present : Roop Nagar,
Ambad Chaufuli, Old Jalna,
Ravindra Niwas, Jalna,
Tq. and Dist. Jalna.
2. Rajendra s/o Balaji Pupalwad,
Age : 22 Years, Occu. : Student,
R/o At Present : Roop Nagar,
Ambad Chaufuli, Old Jalna,
Ravindra Niwas, Jalna,
Tq. and Dist. Jalna. .. Petitioners

Versus

1. The State of Maharashtra,
Through Secretary,
Tribal Development Department,
Mantralaya, Mumbai – 32.
2. The Deputy Director (Research)
and Member Secretary,
Scheduled Tribe Certificate
Verification Committee Aurangabad,
Near Saint Lawrence High School,
Town Centre, CIDCO, Aurangabad,
Dist. Aurangabad. .. Respondents

Shri Chandrakant R. Thorat, Advocate for the Petitioner.
Shri S. G. Sangle, A.G.P. for the Respondent Nos. 1 and 2.

**CORAM : MANGESH S. PATIL AND
SHAILESH P. BRAHME, JJ.
DATE : 19 JULY 2023.**

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

. Heard learned counsel for respective parties for final adjudication of the matter at admission stage.

2. The petitioners are challenging common judgment and order dated 10.03.2022 passed by the respondent No. 2/Scrutiny Committee invalidating their tribe claims as belonging to 'Mannervarlu' (Scheduled Tribe).

3. The petitioners are real brothers. They rely upon validity certificates of four persons including their father. They further rely upon record of vigilance report in case of their father, order of validity of the father, vigilance report, validity order in case of Vijaymala and extracts of the school record.

4. The learned Assistant Government Pleader would oppose the claim of the petitioners. It is submitted that the Scrutiny Committee appreciated the evidence on record and rightly rejected the caste claims of the petitioners. There is evidence on record to show that the claims of the petitioners are incompatible with the record. School record discloses caste as Maratha in respect of close relatives namely Murlidhar, Gangadhar and Balaji. The manipulation of the record is also evident.

5. The learned A. G. P. further submits that validity certificates were rightly discarded by the Scrutiny Committee. The affinity test is held to be against the petitioners. Thus, there

is no illegality committed by the Scrutiny Committee. It is further informed that the Scrutiny Committee has decided to reopen the validity certificates.

6. It transpires from the record that the relationship of the petitioners with the validity holders is not disputed. Ramesh, who is father was issued with the validity certificate after following due procedure of law. There was vigilance enquiry in his case. A speaking order of validity was passed. Thus his validity certificate is safe for reliance. Besides that there are three more validity holders.

7. In view of the law laid down by the in the matter of **Maharashtra Adavasi Thakur Jamat Swarakshak Samiti Vs. State of Maharashtra and others** reported in **2023(2) Mh.L.J. 785**, we hold that the Scrutiny Committee discriminated the petitioners. The impugned judgment and order is unsustainable.

8. The submissions of the learned A. G. P. regarding disparity in the genealogy, contrary entries cannot be looked into in this matter when already the Scrutiny Committee has decided to reopen the matters of the validity holders.

9. The petitioners are entitled for conditional validity certificates. Therefore, we pass following order.

ORDER

- A. The writ petition is partly allowed.
- B. The impugned common judgment and order dated 10.03.2022 passed by the respondent No. 2/Scrutiny Committee is quashed and set aside.
- C. The respondent No. 2/Scrutiny Committee shall issue validity certificates of 'Mannervarlu' (Scheduled Tribe) to the petitioners within a period of two (02) weeks from today on following conditions.
- a) That the validity certificates shall be subject to outcome of reverification of the validity certificates undertaken by the Scrutiny Committee.
 - b) The petitioners shall co-operate with the Scrutiny Committee in the matter of reverification reopened by the committee.
 - c) The Scrutiny Committee shall conclude the proceedings of reverification of the validity certificates of the validity holders relied by the petitioner as early as possible and preferably within a period of six (06) months from today.
 - e) The petitioners shall not claim any equities.

D. The writ petition is disposed of. There shall be no order as to costs.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

bsb/July 23