

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

WRIT PETITION NO. 7479 OF 2021

Deepak s/o Shriram Satamwad,
Age : 17 years (Minor), U/g of his
natural father namely
Shriram s/o Piraji Satamwad,
Age : 41 Years, Occu. : Service,
R/o village Pala, Tq. Mukhed,
District Nanded.

.. Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai – 32.
2. The Scheduled Tribe Certificate
Scrutiny Committee, Aurangabad
Division, Aurangabad, through
its Member Secretary.

3. The Sub Divisional officer,
Degloor, District Nanded.

.. Respondents

Shri A. S. Golegaonkar, Advocate h/f Shri M. A. Golegaonkar,
Advocate for the Petitioner.

Shri A. S. Shinde, A.G.P. for the Respondent Nos. 1 to 3.

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

DATE : 30TH JUNE, 2023.

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

. Heard learned counsel for the respective parties. There is urgency in the matter being from the student's category. Hence it is being decided finally.

2. The petitioner is challenging judgment and order dated 02.11.2020 passed by the respondent No. 2/Scrutiny Committee invalidating his tribe claim of 'Mannervarlu' (Scheduled Tribe). His real brother namely Sanket Shriram Satamwad was also issued with a tribe certificate and subjected to the scrutiny. By distinct order passed on 02.11.2022, it was invalidated.

3. Sanket Shriram Satamwad had preferred Writ Petition Stamp No. 21450 of 2020. On 20.11.2020 it was allowed by a reasoned order. The scrutiny committee was directed to issue validity certificate. The co-ordinate bench thoroughly inspected the record and examined the reasons assigned by the Scrutiny Committee in rejecting the claim.

4. The Scrutiny Committee invalidated the claim of the petitioner because revenue and the school record of the relatives was not supporting. The entry of their tribe was inconsistent. The entries in the case of the relatives namely Vitthal, Yankuram, Balaji were found to be suspicious. The revenue record of the relatives Piraji and Namdev was unreliable. The place of residence of the petitioner and his ancestors was besides the ordinary place of residence of the tribe.

5. The Committee also recorded that tribe validity of the father was based on the evidence and entries of Yankuram and Vitthal. The other validity holders were found to be not reliable. The affinity test was held to be against the petitioner.

6. The validity certificate of the father and judgment and order passed by the Division Bench of this Court in the case of Sanket Shriram Satamwad are produced on record by the petitioner. A reliance can be placed upon the law laid down by the Supreme Court in the matter of **Maharashtra Adavasi Thakur Jamat Swarakshak Samiti Vs. State of Maharashtra and others** reported in **2023(2) Mh.L.J. 785** on the following paragraphs.

"22. We can also contemplate one more scenario which is found in many cases. These are the cases where the applicant relies upon caste validity certificates issued to his blood relatives. Obviously, such a validity certificate has to be issued either by the Scrutiny Committee constituted in terms of the directions issued in Kumari Madhuri Patil's case¹ or constituted under the Rules framed under the 2000 Act. In such a case, firstly, the Scrutiny Committee must ascertain whether the certificate is genuine. Secondly, the Scrutiny Committee will have to decide whether the applicant has established that the person to whom the validity certificate relied upon by him has been issued is his blood relative. For that purpose, the applicant must establish his precise and exact relationship with the person to whom the validity certificate has been granted. Moreover, an enquiry will have to be made by the Scrutiny Committee whether the validity certificate has been granted to the blood relative of the applicant by the concerned Scrutiny Committee after holding due enquiry and following due procedure. Therefore, if the Scrutiny Committee has issued a validity certificate contemplated in terms of the decision in the case of Kumari Madhuri Patil¹, the examination will be whether the enquiry contemplated by the said decision has been held. If the certificate relied upon is issued after coming into force of the 2000 Act, the Scrutiny Committee will have to ascertain whether the concerned Scrutiny Committee had followed the procedure laid down therein as well as in the ST Rules or the SC Rules, as the case may be. For this verification, the Scrutiny Committee can exercise powers conferred on it by Section 9(d) by requisitioning the record of the concerned

Caste Scrutiny Committee, which has issued the validity certificate to the blood relative of the applicant. If the record has been destroyed, the Scrutiny Committee can ascertain whether a due enquiry has been held on the basis of the decision of the Caste Scrutiny Committee by which caste validity has been granted to the blood relative of the applicant. If it is established that the validity certificate has been granted without holding a proper inquiry or without recording reasons, obviously, the caste scrutiny committee cannot validate the caste certificate only on the basis of such validity certificate of the blood relative.

23. In a given case, the Scrutiny Committee may be satisfied that the caste validity certificate relied upon by the applicant has been issued after making a lawful enquiry. But if the Scrutiny Committee is of the view that the applicant has not clearly established that the person to whom caste validity certificate produced on record has been granted is his blood relative, in terms of subrule (2) of Rule 12 of the ST Rules, the Caste Scrutiny Committee will have to refer the case for conducting an enquiry through Vigilance Cell. In such a case, the Vigilance Cell can be directed by the Scrutiny Committee to conduct an enquiry limited to the relationship claimed by the applicant with the person in whose favour the caste validity certificate has been issued. If, on the basis of the report of the Vigilance Cell, the Scrutiny Committee is satisfied that the person in whose favour caste validity certificate has been issued is a blood relative of the applicant and lawful enquiry has been conducted before issuing the validity certificate, the Scrutiny Committee will have to issue validity certificate even if the applicant does not satisfy the affinity test. For example, if it is established that the father or grandfather of the applicant has been given a caste validity certificate after holding a lawful enquiry in accordance with law, the Caste Scrutiny Committee cannot hold that the grandfather or father of the applicant, as the case may be, belongs to Scheduled Tribe but the applicant does not belong to Scheduled Tribe. Only if the relationship as pleaded by the applicant is not established, the other evidence produced by the applicant and the result of the affinity test can be taken into consideration by the Scrutiny Committee."

7. The petitioner and his brother Sanket Shriram Satamwad have relied upon the validity issued to their father Shriram Satamwad. The relationship is not disputed. As the blood relative was issued with validity after considering enquiry report of the vigilance cell, we find no reason to take any contrary view.

8. Significantly the reasons assigned by the Scrutiny Committee for invalidating the petitioner's claim and that of his brother Sanket Shriram Satamwad are identical in verbatim. Once a co-ordinate bench has taken a particular view in case of real brother of the petitioner considering common record of the validities, we have no other alternative than to be consistent with the said view. Even we respectfully concur with that reasoning.

9. The reasons assigned by the Scrutiny Committee are unsustainable and perverse mainly because of law laid down by the Supreme Court in the matter referred to above. The approach of the Scrutiny Committee is discriminatory. We find that the impugned judgment and order is unsustainable in law.

10. The Scrutiny Committee opined to reopen the validity certificates of holders namely Shriram, Veerbadra and Nikhil because those were procured fraudulently and suppressing material facts. False information was supplied for getting the validities. We have not been called upon and will not comment on the decision of reopening.

11. It is informed by the learned Assistant Government Pleader that the validity certificate issued to the father of the petitioner is sought to be reopened. A show cause notice was issued to him. However, there is no further progress. In that view of the matter, the petitioner is entitled to validity certificate conditionally.

12. For the reasons stated above, we allow this writ petition partly on following terms.

A. The judgment and order dated 02.11.2020 passed by the respondent No. 2/Scrutiny Committee is quashed and set aside.

B. The respondent No. 2/Scrutiny Committee shall issue validity certificate of 'Mannervarlu' (Scheduled Tribe) to the petitioner which shall be subject to the decision of the Committee in case of validity certificate of his father in the reopened matter.

C. The petitioner shall not claim any equity in case the validity certificate of his father is revoked or cancelled.

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

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

bsb/June 23