

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.5213 OF 2022

Aakanksha d/o Ramchandra Malshetwar,
Age 25 years, Occupation Education,
R/o Hatral, Tq. Mukhed, Dist.Nanded. **...Petitioner**

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Medical Education and Drugs Department,
Mantralaya, Mumbai.
2. The Scheduled Tribe Caste Certificate
Verification Committee Kinwat,
Through its Dy. Director ®,
At Aurangabad.
3. The Dean
Dr. Shankarrao Chavan
Government Medical College
Nanded, Dist. Nanded.
4. The Registrar,
Maharashtra University of Health
Sciences, Dindori Road, Mhasrul/
Nashik, District Nashik.

...Respondents

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Advocate for Petitioner : Mr. S. M. Vibhute
AGP for Respondents No.1 and 2 : Mr. S. K. Tambe
.....

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

DATE : 05/07/2023.

JUDGMENT : (Per SHAILESH P. BRAHME, J.)

Heard the learned Advocates for the parties and with their consent the petition is taken up for final hearing.

2. The petitioner is challenging the Judgment and order dated 24/03/2022, passed by the respondent No.2 Scrutiny Committee, invalidating claim of Mannervarlu. She has placed on record the caste validity certificates of her close relatives, Judgment and order passed in Writ Petition No.2225 of 1993 in case of Arti d/o Vyankatrao Malshetwar Vs. The State of Maharashtra, decided on 18/08/1993, the affidavits and the genealogy.

3. The Scrutiny Committee non-suited the petitioner on the ground that there were contra entries in the vigilance inquiry the relatives were found to be belonging to 'Munnarwar', the school/ revenue record was not consistent with the claim, the place of residence of the petitioner and her forefathers was not compatible with her claim, and that affinity test was against her. The Scrutiny Committee discarded the validity certificates of the close relatives on the ground that those were obtained by suppressing material facts, were issued without following due procedure of law, the relationship was in dispute and the contra entries were not disclosed while seeking validation of their certificates.

4. The learned Advocate for the petitioner submits that the real sister of the petitioner Arti was issued with a validity certificate pursuant to the Judgment and order passed by the Division Bench, in Writ Petition No.2225 of 1993. The contrary entry upon which the respondent Committee is harping is already considered by the Division Bench. He would further submit that there were validity certificates issued in favour of the close relatives namely Sarika, Rukmin, Godawaribai, Jamuna, Tukaram. The genealogy is placed on record, which is at page No.26. The relations of the validity holder with the petitioners are not disputed. It is further submitted that the Committee ought to have relied upon the validity certificates of the relatives in view of law laid down by the Supreme Court in the matter of Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti vs. The State of Maharashtra and Ors., reported in 2023 (2) Mh.L.J. 785.

5. The learned AGP opposes the claim of the petitioner on the ground that the report of the Vigilance Committee recorded that the tribe 'Munnarwar' was shown in record of the blood relatives of the petitioner. There is interpolation in the school record of Vyankat Tukaram Malsetwar, which is very serious and amounts to fraud. It is also pointed out that the record of Panchfula shows tampering.

Lastly it is submitted that the validity certificates which are relied upon by the petitioner were not secured by following due procedure of law. There was suppression of material facts. The impugned Judgment therefore needs to be confirmed. The learned AGP places reliance upon the original record.

6. We have considered the rival submissions of the learned Advocates and perused the record produced by the Scrutiny Committee. The real sister of the petitioner Arti was issued with validity certificate pursuant to the Judgment and order dated 18/08/1993, passed by Division Bench in Writ Petition No.2225 of 1993. In paragraph No.3 of the Judgment, the Division Bench considered the contra entry in the school record of the father. It reveals that the adverse school record and revenue record was considered in the matter of Arti. In case of Arti there is nothing on the record to show that due procedure was not followed before issuing validity certificate. In that view of the matter there is no room for us to discard validity certificate of Arti. It is pertinent to note that the Scrutiny Committee did not record any adverse finding against validity certificate of Arti except saying that the validity certificate was obtained by suppressing material facts.

7. We also find that there are validity certificates issued in favour

of blood relatives of the petitioner. Unless the Scrutiny Committee reopens their matters, we are bound to accept the evidence.

8. We also put up a query to the learned AGP in respect of any proposal to reopen the matters of validity holders. He submits that no steps have been taken by the Committee for reopening of any of the matters. We are of the considered opinion that the present case is covered by law laid down in paragraphs No.20 to 24 of the Supreme Court in the case of Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti (Supra).

9. We, therefore, allow the present writ petition partly in the following terms :-

- 1) The Judgment and order dated 24/03/2022, passed by respondent No.2 Scrutiny Committee, is hereby quashed and set aside.
- 2) The respondent No.2 Scrutiny Committee shall issue validity certificate to the petitioner within a period of two weeks.
- 3) There shall be no order as to costs.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

vjg/-