

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

Writ Petition No. 8125 / 2021

Krishna s/o Raghunath Tadewad,
 Age 23 years, Occu. Education,
 R/o. Nandgaon, Tq. Kinwat,
 Dist. Nanded.

...Petitioner

Versus

1. The State of Maharashtra,
 Through Secretary,
 Tribal Development Department,
 Mantralaya, Mumbai.

2. The Scheduled Tribe Certificate
 Scrutiny Committee, Aurangabad,
 Through its Dy. Director (R),
 Aurangabad.

3. The Dean
 Grant Government Medical College
 & Sir J.J. Group of Hospital Mumbai
 JJ Marg, Mumbai.

4. The Registrar,
 Maharashtra University of Health Sciences,
 Dindori Road, Mhasrul/ Nashik,
 District Nashik.

...Respondents

— — —
 Mr. S. M. Vibhute, Advocate for the Petitioner
 Mr. P. S. Patil, AGP for Respondent Nos. 1 to 3
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**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 5 JULY, 2023.

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

. Heard learned Counsel for the parties and the matter is decided finally at the admission stage, with their consent.

1. The petitioner is challenging judgment and order passed by the respondent no.2/Scrutiny Committee dated 1/6/2021, invalidating his claim for scheduled tribe 'Mannervarlu'. The Petitioner relies upon the validity certificate issued in favour of his father Raghunath and Chandrakant. He has produced genealogy at Page no. 22 to show the relation with the validity holders. He has also produced on record the affidavits, vigilance enquiry report in the matter of his father and his reply to the vigilance report.

2. The Scrutiny Committee invalidated the claim on the ground that there were contrary entries. The vigilance report and affinity test did not support the claim of the petitioner. The School & revenue record is not compatible with the claim. There was tampering in the record of

Kasinath, Suryakant, Raghunath, Keshav. Vithabai was not found to be the relative of the Claimant.

3. It was further recorded that the validity certificate of Raghunath and Chandrakant were not reliable. False information was given for procuring their validity certificates. Chandrakant was not found to be related with the petitioner. There was no reasoned order in case of Chandrakant by the Scrutiny Committee. Their validity certificates were based upon the tampered record of a blood relative.

4. The learned AGP supports the impugned judgment & order. The files of Raghunath, Chandrakant and the petitioner are produced on record for perusal. Learned AGP submits that fraud was committed in obtaining the validity certificates by Chandrakant and Raghunath. No reasoned order was passed by the Scrutiny Committee in case of Raghunath. Tempered and suspicious entries in the school record are pointed out.

5. We have given thoughtful consideration to the rival submissions of the parties. Validity certificate has been issued to the father of petitioner,

Raghunath. The genealogy in case of the petitioner and in case of his father is not disputed. There was due and proper procedure followed in case of father Raghunath. A vigilance enquiry was conducted and its report is on record. The report appears to be in favour of Raghunath. Another validity certificate was issued in favour of Chandrakant. His record shows that there is validity order based upon due enquiry conducted by the competent Authority.

6. It is submitted that there was no relation between Chandrakant and petitioner or his father. If this argument is accepted then the allegations of suppression of material facts and fraud in case of Chandrakant may not be useful for deciding the present matter of the petitioner. The alleged fraud may not be the contributing factor for discarding validity of Raghunath.

7. It reveals that Vithabai was alleged to be in relation with the petitioner. The relationship of Vithabai is specifically denied by a reply filed by the petitioner to the vigilance cell report which is at page no.30. The Scrutiny Committee had already considered the contrary entries, while assessing validity of his father. We do not find any special

reason to discard the claim of the petitioner. There was vigilance enquiry and entire aspect of the matter was taken into account while validating claim of father, Raghunath.

8. We rely upon the validity certificate of Raghunath as per law 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.

9. The Scrutiny Committee has arrived at perverse finding. We are of the considered opinion that the impugned judgment and order is unsustainable in law.

10. So long as the validity certificate in case of Raghunath Chandrakant and Suryakant are intact, we have no option but to validate the claim of the petitioner. The Scrutiny Committee discarded the validity certificate of Raghunath, Chandrakant & Suryakant for various reasons. At this juncture we offer no comments on these observations. We are not exercising appellate jurisdiction. That aspect can be gone into if and when their cases are reopened.

11. It is informed by the learned AGP that the caste validity certificate issued in favour of Raghunath is decided to be reopened by the Scrutiny Committee. A show cause notice is issued to his father. We are of the considered opinion that the petitioner is entitled to receive conditional validity.

12. For the reasons assigned above, the petition succeeds as follows.

- (i) The judgment and order dated 01.06.2021 passed by the respondent no.2/Scrutiny Committee, is quashed and set aside.
- (ii) The Scrutiny Committee shall issue tribe validity certificate to the petitioner for 'Mannervarlu' within a period of two weeks on following conditions that;
 - [a] that it shall be subject to the outcome of enquiry of validity holders proposed to be reopened.
 - [b] that the petitioner shall not claim any equity.
 - [c] that the petitioner and his father shall cooperate with the Scrutiny Committee in the matter of reopening of validity certificate.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]