

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

WRIT PETITION NO. 6231 OF 2023

Vitthal s/o Waman Pawar,
Age- 19 years, Occu. Student,
R/o Kondha, Tq. Ardhapur
Dist. Nanded .. Petitioner

Versus

1. The State of Maharashtra,
Department of Tribal Development,
Mantralaya, Mumbai – 32.
Through its Secretary,
2. The Scheduled Tribe Certificate
Scrutiny Committee, Kinwat
Headquarter- Aurangabad,
Tq. & Dist. Aurangabad.
Through its Member Secretary. .. Respondents

Shri Sushant C. Yeramwar, Advocate for the Petitioner.
Shri P. S. Patil, Addl.G.P. for the Respondent Nos. 1 and 2.

**CORAM : MANGESH S. PATIL AND
SHAILESH P. BRAHME, JJ.
DATE : 09 AUGUST 2023.**

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

. Heard both the sides finally at the admission stage
considering the urgency expressed by the petitioner.

2. The petitioner is challenging judgment and order dated
19.04.2023 passed by the respondent No. 2/Scrutiny Committee

invalidating his tribe claim for 'Thakur' (Scheduled Tribe) and confiscating his tribe certificate.

3. The petitioner is relying upon validity certificate of Shakuntala Jagdev Pawar who is the paternal side blood relative of the petitioner. The petitioner has also placed on record affidavit, genealogy, extract of the school record and the revenue record.

4. The learned Assistant Government Pleader has opposed the claim of the petitioner. According to him the scrutiny committee is justified in discarding the validity certificates, which were defective. There was no satisfactory evidence to indicate the caste of the petitioner as Thakur (S.T.). Affinity test was also proved to be negative.

5. The learned A. G. P. has also placed on record the original file of Shakuntala Jagdev Pawar, a validity holder.

6. Before advertng to the merits of the matter it is necessary to refer to the orders passed by this Court on 13.07.2023. The petitioner was directed to file affidavit of Shakuntala to substantiate his claim, being related to her. Today, learned counsel for the petitioner expresses his inability to file affidavit of Shakuntala on record. However, he has filed on record affidavit of Govind Wamanrao Pawar along with genealogy and statement of Jagdev @ Rama Wamanrao Pawar.

7. The genealogy reflects that Shakuntala Jagdev Pawar is the paternal side relative of the petitioner. Though the petitioner has not filed affidavit of Shakuntala, an affidavit of Govind Waman Pawar is on record. It shows that Shakuntala is his niece. It is stated on oath that Gangadhar, Jagdev @ Jagdish, Baynabai and Govind are the siblings of Waman. This affidavit is significant because the learned A. G. P. has contended that the genealogy on page No. 24 is suspicious. However, the affidavit of Govind Wamanrao Pawar fortifies that present petitioner and his grandfather are related to Shakuntala. This corroborates the claim of the petitioner that the validity certificate of Shakuntala is reliable one.

8. It is noticed that there was vigilance enquiry in the case of Shakuntala. The original file shows that the reasoned order was passed while issuing validity to Shakuntala. We find that validity certificate was issued to Shakuntala after following due procedure of law. It would enure to the benefit of the petitioner.

9. It is further transpired from the record that other documentary evidence was also there in the matter of Shakuntala. The finding of the Scrutiny Committee that validity certificate of Shakuntala was based upon the relatives of the maternal side only is not correct. We have noticed old school record of Gangadhar Waman Thakur, grandfather of the petitioner indicating showing caste as Thakur. In that view of the matter we hold that the scrutiny committee committed patent illegality in rejecting the caste claim.

10. The scrutiny committee has proposed to undertake reverification of the validity holder. Till the validity certificates are revoked the petitioner is entitled to get the validity certificate conditionally.

11. For the reasons recorded above, we pass following order.

12. The writ petition is partly allowed. The impugned order is quashed and set aside. The respondent – committee shall immediately issue tribe validity certificate to the petitioner as belonging to ‘Thakur’ scheduled tribe in the prescribed format without adding anything. The validity shall be subject to the final outcome of the matters which the committee has decided to re-open.

13. The petitioner shall not be entitled to claim equities.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

bsb/Aug. 23