

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

1049 WRIT PETITION NO.7026 OF 2023

SNEHA SAINATH ASPAT THROUGH POWER OF ATTORNEY HOLDER
SAINATH VYANKATRAO ASPAT
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr. Sunil Mahadevappa Vibhut
AGP for Respondent Nos. 1 & 2 : Mr. S.K. Tambe
...

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

DATE : 27 JULY 2023

PER COURT :

Heard both the sides finally in view of exigency being expressed.

2. The petitioner's tribe claim has been invalidated by the respondent no. 2 – Scrutiny Committee, by the order under challenge.

3. Learned Advocate for the petitioner would point out that the petitioner was relying upon the validity certificate issued to one Laxman Priaji Aspatwad who is her distant paternal side uncle issued by the then Committee. Affidavit of Laxman Piraji Aspatwad was also filed in support of the claim. However, the Committee has refused to extend the benefit of Laxman's validity on the ground that during vigilance the statement of Laxman's mother Bhagabai Piraji Aspatwad was recorded, wherein, she had informed that Laxman's father's name was Piraji Nagoba Aspatwad, whereas, in the affidavit of Laxman, he

has shown genealogy, wherein, his father's name is shown as Piraji Bhumanna Aspatwad. Based on such discrepancies, the Committee has brandish it as a false genealogy.

4. Pertinently, the Scrutiny Committee has not independently undertaken any enquiry to ascertain as to if barring this discrepancy there was something else before it to discard the genealogy being furnished by Laxman in his affidavit. More importantly Laxman who admittedly is a validity holder and even in this genealogy he mentions petitioner as his distant niece.

5. Learned Advocate for the petitioner, on instructions, also fairly concedes that there is such a discrepancy but according to him, it is a human error and the petitioner admits it.

6. If irrespective of the statement of Bhagabai, Laxman himself has stated the petitioner to be his distant niece, the Committee could have undertaken a further Scrutiny as to if indeed it was an error or a mere discrepancy. Now that, even the petitioner admits this to be an error, we have no hesitation in accepting Laxman's affidavit, wherein, he has given a genealogy showing the petitioner as his niece. Having reached to such a conclusion, the approach of the Committee in discarding Laxman's validity for extending the benefit to the petitioner will not be sustainable. More importantly, the impugned order

also does not expressly discuss the circumstances in which Laxman was issued with validity certificate.

7. Learned AGP, on instructions, submits that independently the Committee has decided to re-open his validity as well.

8. Validity certificate of Laxman is still to be revoked and cancelled. Petitioner being his niece and a blood relative from the paternal side, in our considered view, it would be appropriate that the petition is allowed partly and the petitioner is directed to be issued with a validity certificate subject to usual conditions.

9. The Writ Petition is partly allowed. The impugned order is quashed and set aside. The Committee shall issue validity certificate to the petitioner as belonging to 'Mannervarlu' scheduled tribe within a week. Such validity certificate shall be subject to the decision / outcome of the matter of Laxman which the Committee intends to re-open. The petitioner shall not be entitled to claim any equity.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]