

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

Writ Petition No. 1904 / 2022

Bajrang S/o Uttam Nirde

...Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary
Tribal Development Department,
Mantralaya, Mumbai.
2. The Scheduled Tribe Caste Certificate
Verification Committee, Aurangabad
Through its Member Secretary, Aurangabad.
3. The Principal
Matoshri Pratishthan Engineering College,
Vishnupuri, Nanded
Tq. and Dist. Nanded.

...Respondents

AND

Writ Petition No. 908 / 2022

Shrikant S/o Gangadhar Nirde

...Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary
Tribal Development Department,
Mantralaya, Mumbai.
2. The Scheduled Tribe Caste Certificate
Verification Committee, Aurangabad
Through its Member Secretary, Aurangabad.
3. The Principal
Adarsha Junior College, Omerga,
Tq. Omerga and Dist. Osmanabad.

...Respondents

Writ Petition No. 910 / 2022

Maroti S/o Uttam Nirde

...Petitioner**Versus**

1. The State of Maharashtra,
Through its Secretary
Tribal Development Department,
Mantralaya, Mumbai.
2. The Scheduled Tribe Caste Certificate
Verification Committee, Aurangabad
Through its Member Secretary, Aurangabad.
3. The Principal
Adarsha Junior College, Omerga,
Tq. Omerga and Dist. Osmanabad.

...Respondents

Mr. Sunil M. Vibhute, Advocate for the Petitioners in all petitions.

Mr. S. G. Sangale, AGP for respondents/State.

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

DATE : 27 SEPTEMBER 2023.

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

. Heard both the sides finally.

2. The petitioners are closely related inter se. They claim to be belonging to Mannervarlu scheduled tribe. They were issued with tribe certificates. By common judgment and order dated 28.06.2021, the tribe certificates are invalidated and confiscated by the Scrutiny Committee. Being aggrieved these petitions are filed. We propose to decide the petition by common order.

3. The petitioners are relying upon the validity certificates of Shankar Gangadhar Nirde, who is real brother of one of the petitioners, Shrikant. The learned Counsel for the petitioners submits that the selfsame record including the contrary entries were considered by the Scrutiny Committee and by following due procedure of law, validity certificate was issued to Shankar. Hence on the ground of parity the petitioners are entitled to validity certificates. He would submit that unless the validity certificate of Shankar is recalled, the petitioners cannot be denied the benefit of same social status.

4. The learned AGP supports impugned judgment and order. According to him, the Scrutiny Committee is justified in rejecting the caste claim considering incompatible school record. The vigilance enquiry revealed tampering of the school record of close relatives of the petitioners. The validity certificate was issued on the basis of such contrary and tampered record which is unreliable. It is therefore urged that no case is made out by the petitioners and the Committee has rightly rejected the caste claim.

5. The learned AGP has produced on record the original file of the petitioner, Shrikant. It is further informed that the Scrutiny Committee has proposed re-verification of the validity certificate issued to Shankar.

6. The learned Counsel for the petitioners has shown the genealogy which is at page no.14. The relationship is not disputed by the learned AGP. It can be seen from the record that there was

vigilance enquiry. Shankar was issued with validity certificate after conducting vigilance enquiry. We find that the validity certificate of Shankar is reliable one and it should enure to the benefit of the petitioners. Unless the said validity certificate is quashed and set aside, the petitioners cannot be deprived of the validity certificates.

7. The learned AGP has shown the contrary entries which surfaced during enquiry. The petitioners filed reply to the vigilance report. In a reply, the contrary entries at serial nos. 1, 4, 30 and 31 which are enlisted in a table at page no.17, are denied. The same record was earlier considered by the Scrutiny Committee. Therefore , it is not permissible for the Committee to arrive at a different conclusion.

8. The Scrutiny Committee has proposed re-verification of validity certificate of Shankar. It is open for the Committee to conduct a scrutiny to find out the element of fraud. The petitioners are entitled to the validity certificates subject to certain conditions. In that view of the matter, we find that the impugned judgment and order is unsustainable.

9. For the reasons assigned above, we pass the following order.

ORDER

- (i) The writ petitions are partly allowed.
- (ii) The common judgment and order dated 28.06.2021 passed by the Scrutiny Committee is quashed and set aside.

(iii) The Scrutiny Committee shall issue tribe validity certificates of 'Mannervarlu scheduled tribe' to the petitioners forthwith which shall be subject to the outcome of re-verification undertaken by the Scrutiny Committee.

(iv) The petitioners shall not be entitled to claim equities.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]