

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

Writ Petition No. 8840 / 2021

Arti d/o Suresh Ganglod,
Age 22 years, Occu. Education,
R/o. Kasrali, Tq. Biloli,
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, Aurangabad,
Through its Dy. Director (R),
Aurangabad.
3. The Dean
Dr. V. M. Government Medical College Solapur,
Dist. Solapur.
4. The Registrar,
Maharashtra University of Health Sciences,
Dindori Road, Mhasrul/ Nashik,
District Nashik.

...Respondents

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Mr. S. M. Vibhute, Advocate for the Petitioner

Mr. S. K. Tambe, AGP for Respondent Nos. 1 to 3

Mr. Shamsundar B. Patil, Advocate for Respondent No.4

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**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.
DATE : 10 JULY, 2023.**

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

. Heard both the sides for final disposal.

1. The petitioner is challenging judgment and order passed by the respondent no.2/Scrutiny Committee dated 25/06/2021, invalidating her claim for scheduled tribe 'Mannervarlu'. She has placed reliance upon the validity certificate issued to her cousin sister Anupama and uncle Balaprasad. She has also placed on record the vigilance report in case of her sister Anupama, affidavits and reply to the vigilance report.

2. The Scrutiny Committee invalidated her case considering school record of the relatives Digambar, Mohan, Subhash, Balaprasad. It was found that the entry of tribe name 'Mannervarlu' in the school record of the relatives was with the fraudulent intention. The entries of school record of her uncle Balaprasad and her father were inconsistent. There was no sufficient record to support the claim of the petitioner.

3. The affinity test was held against the petitioner. The Scrutiny Committee refused to rely upon the validity certificates of Anupama and

her mother, Suwarnmala due to suppress of material facts. It was found that one of the relatives, Hanmant's tribe certificate was invalidated by the Competent Authority. It was further held that the validity certificates were procured suppressing true facts.

4. The learned AGP supports the impugned judgment and order. According to him, school record of Balaprasad, Hanmant and Mohan being relatives of the petitioner, was incompatible. The genealogy produced on record does not tally.

5. The learned AGP emphatically submits that there is fraud played by the petitioner in suppressing that she was refused the tribe certificate and she had filed appeal under Section 5 Sub-section 2 of the Maharashtra Scheduled Caste, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 ('the Act' for short). During the pendency of the said appeal, she secured the present tribe certificates. As the fraud vitiates the claim, the Scrutiny Committee is justified in rejecting her claim.

6. It is a matter of record that the validity certificates of cousin Anupama and uncle Balaprasad are on record. The relationship between the petitioner and validity holders are not disputed. There was vigilance enquiry in the matter of Anupama as well as in the matter of Balaprasad. Thus, after following due procedure of law, the validity certificates were issued to them. The relevant material and contrary entries were taken into account. Therefore we can safely rely upon those certificates in view of principles 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.

7. We are not considering the validity certificates issued to mother of the petitioner.

8. The submissions of the learned AGP in respect of the contrary entries appearing in the school record of Hanmant, Mohan, Digambar and Balaprasad are inconsequential. The difference in the genealogy which is tried to be pointed out by the learned AGP is also little significance at this juncture. The impugned judgment and order is unsustainable.

9. The submission of learned AGP regarding fraud by suppressing pendency of the appeal under Section 5 of the Act, also does not restrain us from deciding in favour of the petitioner. The Scrutiny Committee did not consider said factual aspects of the matter. We cannot dwell upon the said facts for the first time in writ jurisdiction.

10. We are of the considered view that the impugned judgment of the Scrutiny Committee is discriminatory and arbitrary. We therefore pass the following order.

ORDER

- (i) The writ petition is partly allowed.
- (ii) The judgment and order dated 25.06.2021 passed by the respondent no.2/Scrutiny Committee, is quashed and set aside.
- (iii) The Scrutiny Committee shall issue tribe validity certificate in favour of the petitioner for 'Mannervarlu' within a period of two weeks on following conditions that;
 - [a] the validity certificate shall be subject to the outcome of the revocation proceedings of validity certificates of the blood relatives of the petitioner.
 - [b] the petitioner shall not claim any equity.

[c] the petitioner shall cooperate with the Scrutiny Committee.

(iv) In view of above terms, the writ petition is disposed of.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]