

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8616 OF 2023

Gaurav S/o Vijay Rabade

Age : 19 years, Occu : Education,

R/o. Devari, Tq. Soygaon,

District – Aurangabad

.. Petitioner

Versus

1] The State of Maharashtra
Through the Secretary for
Tribal Development Department,
Maharashtra State,
Mantralaya, Mumbai

2] The Scheduled Tribe Scrutiny
Committee, Aurangabad Division,
Aurangabad Through its Secretary

.. Respondents

...
Advocate for petitioner : Mr. V.D. Hon, Senior Advocate i/b. Mr. A.V. Hon
AGP for the respondent – State : Mr. A.S. Shinde
...

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

DATE : 20 JULY 2023

ORAL ORDER (MANGESH S. PATIL, J.) :

Heard learned senior advocate for the petitioner and
learned AGP and perused the papers.

2. Considering the fact that the petitioner is now seeking
admission to the Engineering course in the ongoing process wherein
third round is over and the process is in the fourth round wherein today
is the last date for uploading the documents, on the request of the

petitioner and in view of his career, we have taken up the matter urgently for final disposal.

3. The petitioner is challenging the order of the respondent – caste scrutiny committee refusing to grant validity certificate to him as belonging to *Naikada* scheduled tribe.

4. The learned senior advocate Mr. Hon would take us through the record and particularly the validity certificates issued to the father and paternal uncle of the petitioner and a conditional validity granted to the petitioner's sister by this Court. He points out that though the committee had disclosed its intention to re-open the validity when petitioner's sister – Nisha's case was before this Court, till date the enquiry has not proceeded further. The petitioner being the real brother of Nisha cannot be deprived of the benefit of reservation.

5. Learned AGP strongly opposes the petition. He submits that there are rampant forgeries in the school record and even the revenue record. There are several contrary entries indicating that the family is *Vanjari* and not *Naikada*. *Vanjari* falls in other backward class. The school record has been manipulated without taking recourse to the provisions of the Secondary School Code. All the material has been collected during the pendency of the present enquiry but validities were already granted based on the forged document and by a committee

headed by one Mr. Patil. The matter had reached to the government regarding rampant irregularities and forgery by the committee headed by Mr. Patil and a decision was taken to re-open the validity certificates issued by the then committee.

6. He would, therefore, submit that in view of such glaring forgeries, the petitioner cannot be granted validity certificate and no objection can be taken in respect of the conduct of the committee in refusing to rely upon the validities. The learned AGP would lastly submit that notices have been issued to the validity holders in the month of January 2023 and the petitioner's father and paternal uncle have not been co-operating.

7. It does appear that in the order under challenge, the committee seems to have seriously undertaken a threadbare scrutiny to reach a conclusion that there are rampant forgeries in the school record and revenue record of the petitioner's father and even the validity certificates were dubious having been issued by the committee headed by Mr. Patil. For the present, we need not go into all these aspects for the simple reason that in spite of the committee having committed to this Court when the petitioner's sister Nisha's matter was being considered that it would conclude the re-opened validity holder's claim within six months, for last almost 4 years, the committee has not progressed beyond issuance of notice that too in January 2023.

8. If the petitioner's father and paternal uncle are armed with the validity certificates which were the basis for this Court to concede to the request of petitioner's sister who was issued the validity certificate subject to the decision to be taken in the matters to be re-opened and when those validities are still not cancelled or revoked, the petitioner must be extended the same benefit.

9. We allow the writ petition partly and quash and set aside the impugned order.

10. The respondent scrutiny committee shall now issue tribe validation certificate of *Naikada* scheduled tribe to the petitioner during the course of the day.

11. This validity certificate shall be subject to the decision to be taken in the matters the committee has re-opened.

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

13. The petitioner's father and paternal uncle shall co-operate the scrutiny committee in early disposal of the re-opened matters. Any delay on their part may result in recalling of this order.

14. The learned AGP shall convey this order immediately to the scrutiny committee.

15. Officer / employee of the committee who is personally present should arrange to issue the validity certificate immediately.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/