

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

Writ Petition No. 9510 / 2019

Saurabh s/o Dattahari Kawadewar

...Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary
Tribal Development Department,
Mantralaya, Mumbai.
2. The Scheduled Tribe Caste Certificate
Scrutiny Committee, Aurangabad Division
Plot No.10, Sector E-1, Near Saint
Lawrence High School,
Opp. CIDCO Bus Stand, Aurangabad.
3. The Dy. Collector (LA) B & C
Collectorate, Nanded.
4. The Collector,
Collectorate, Nanded.

...Respondents

Mr. Madhur A. Golegaonkar, Advocate for the Petitioner.

Mr. S. B. Yawalkar, AGP for respondents/State.

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

DATE : 21 SEPTEMBER 2023.

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

1. Heard both the sides finally at the admission stage.

2. The petitioner is challenging the judgment and order dated 04.07.2019 passed by the Scrutiny Committee invalidating his tribe

certificate of Mannervarlu scheduled tribe and confiscating the same. The fulcrum of the submission of the learned Counsel for the petitioner is that considering the selfsame record, the brother of the petitioner Parth received validity certificate in pursuance of the order dated 22.08.2023 passed by this Court in Writ Petition No.10390/2023. Besides that there is validity certificate of father of the petitioner and consistent record to support tribe claim. He would submit that the petitioner is entitled to validity certificate on the ground of parity.

3. The learned AGP would oppose the caste claim of the petitioner. The school record of the close relatives of the petitioner namely Venkati, Gangasagar, Jayram, Laxman and Gangadhar is found to be incompatible. The old school record of Nagorao which is sought to be relied upon by the petitioner is rightly discarded. He would support the finding of discarding of validity certificate of father.

4. The learned Counsel for the petitioner has placed on record the text of the order passed by us on 22.08.2023 in the matter of Parth Dattahari Kawadewar Vs. State of Maharashtra and Another in Writ Petition No.10390/2023. The petition was partly allowed, directing the Scrutiny Committee to issue certificate of validity conditionally. In paragraph no.4 and 5, we have assigned the reasons for allowing the petition. In the present matter, we also propose to follow the same course. The petitioner is entitled to to validity certificate on certain conditions on the ground of parity.

5. The learned Counsel for the petitioner has referred old entry of 1951 of cousin grandfather of the petitioner Nagorao, indicating caste as Mannervarlu. The petitioner's father was also issued with validity certificate. The above entry has a probative value. Unless the earlier validity certificates are revoked, the petitioner cannot be denied the same social status. The Scrutiny Committee has committed perversity in discarding the validity certificate of father of the petitioner.

6. For the reasons assigned above, we find that the impugned judgment and order is liable to be quashed and set aside. We, therefore, pass the following order.

ORDER

- (i) The writ petition is allowed partly.
- (ii) The judgment and order dated 04.07.2019 passed by the Scrutiny Committee is quashed and set aside.
- (iii) The Scrutiny Committee shall issue tribe validity certificate of 'Mannervarlu scheduled tribe' to the petitioner forthwith which shall be subject to the outcome of re-verification undertaken by the Scrutiny Committee for the validity certificate of petitioner's father.
- (iv) The petitioner shall not be entitled to claim equities.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]