

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

WRIT PETITION NO.9400 OF 2023

Shivam s/o Digambar Perke
through power of attorney holder
Digambar s/o Shivram Perke

... **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 Dy. Director (R),
District Aurangabad

... **RESPONDENTS**

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Advocate for Petitioner : Mr. S.M. Vibhute
A.G.P for respondents : Mr. S.K. Tambe

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

DATE : 01.08.2023

ORDER (MANGESH S. PATIL, J.) :

Heard both the sides finally.

2. Since the petitioner has appeared for NEET-UG-2023 and is to take admission from reserved category, we have taken up this matter urgently for final disposal with the consent of both the sides.

3. The petitioner is challenging the order passed by the respondent – Scrutiny Committee invalidating her tribe claim as belonging to ‘Mannervarlu’ scheduled tribe.

4. We have considered the rival submissions and perused the papers.

5. The committee has found that there are several entries which are contrary to the petitioner's claim which could be traced by the vigilance cell from the record of the concerned school. Even there are contrary entries in the revenue record of the petitioner's ancestors.

6. In our considered view, we need not go into the details in respect of the sustainability of the reasons assigned by the Committee for invalidating the tribe claim particularly for the reason that the Committee has now formed an opinion that the petitioner's father Digambar Shivram Perke had obtained the validity certificate by resorting to fraud by concealing the aforementioned several contrary entries in the school record and the revenue record.

7. Since the Committee has now decided to undertake a reverification of the validity holder's certificate, the circumstances which according to the Committee constituted fraud, in our considered view can be taken care of by the Committee in the matter to be reopened. Suffice for the purpose to observe that since the petitioner's father who is the validity holder is not before us, any comment made by us in this order touching that aspect of alleged fraud could have a bearing on the inquiry to be undertaken by the Committee and would cause a serious prejudice to them. We are, therefore, consciously avoiding to undertake that scrutiny.

8. The Committee has observed that the validity certificate was issued to Digambar Shivram Perke by the then Deputy Director who was a member of the Committee and was not authorized to issue the validity

certificate. Pertinently, the Committee has now decided to reopen that validity by taking appropriate steps. If this be so, the stand of the Committee that it was issued by an officer who was not authorized by the Committee to issue would be inconsistent with its stand to go for reverification for the alleged fraud practised by Digambar Perke.

9. Be that as it may, since there is no dispute that the petitioner is the son of the validity holder, he is entitled to receive a conditional validity.

10. The writ petition is partly allowed. The impugned order is quashed and set aside. The committee shall immediately issue tribe validity certificate to the petitioner as belonging to "Mannervarlu" scheduled tribe, which shall be subject to the decision to be taken by the committee in the reopened matters.

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

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)