

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

WRIT PETITION NO. 9296 OF 2023

Somnath S/o Shankarrao Totewad,
aged 29 years, residing AT Aurala
Post Salegaon, Tal. Naigaon,
Dist. Nanded .. Petitioner

Versus

1. State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai 400 032.
2. Scheduled Tribe Certificate Scrutiny
Committee, Kinvat Division,
Having its headquarters at
Aurangabad through its Member
Secretary, having its office at
Aurangabad, Dist. Aurangabad. .. Respondents

Shri Sagar S. Phatale, Advocate for the Petitioner.
Shri P. S. Patil, Addl.G.P. for the Respondent Nos. 1 and 2.

**CORAM : MANGESH S. PATIL AND
SHAILESH P. BRAHME, JJ.
DATE : 01 AUGUST 2023.**

FINAL ORDER (Per Shailesh P. Brahme, J.) :-

. Heard both the sides finally at the admission stage as urgency is expressed in the matter.

2. The petitioner is assailing the impugned judgment and order dated 21.07.2023 passed by the respondent No. 2/Scrutiny

Committee invalidating the tribe claim of the petitioner as to 'Mannervarlu' (Scheduled Tribe).

3. The petitioner is relying upon the validity certificates issued to his sisters Mahananda Shankarrao Totewad and Shivkanta Shankarrao Totewad. He also places reliance on old entry of crop inspection showing his great grandfather's name and caste as Mannervarlu. He also relies upon vigilance report and reply submitted to the same.

4. The learned Additional Government Pleader supports the impugned judgment and order. He has pointed out contrary entries of the close relatives of the petitioner. He has further pointed out the discrepancy in the genealogy produced in the matter of Shivkanta and Kapil. According to him there was suppression of material facts and fraud played by validity holders.

5. We have considered the rival submissions and perused original files of Shivkanta Shankarrao Totewad, Kapil Dattrao Totewad and Laxmibai Shankarrao Totewad. We notice pre-independence record of 1941-43 disclosing the caste as Mannervarlu of the great grandfather of the petitioner. The said entry has great probative value and worth relying. This is clinching evidence to support the case of the petitioner.

6. The discrepancy pointed out by the learned Addl. G. P. in respect of genealogy disclosed in the matter of validity holders

cannot be gone into at this stage. The Committee has decided to reopen the validity granted to the close relatives. We restrain ourselves from commenting on the submissions of the learned Addl. G. P. pertaining to the infirmities of the validity certificates. This aspect can be looked into by the Committee during the reverification, but till the validity certificates are revoked, we cannot deprive the petitioner from conditional validity. The impugned order is unsustainable and deserves to be quashed and set aside.

7. For the reasons recorded above, we dispose of the writ petition by passing following order.

O R D E R

1) 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. It shall be subject to the decision to be taken by the committee in the reopened matters.

2) The petitioner shall not be entitled to claim equities.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]