

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

WRIT PETITION NO. 9528 OF 2023

Sainath s/o Yadavrao Gopulwad,
Age 21 years, Occ. Student,
resident at Aurala, Tq. Naigaon,
Dist. Nanded

... **Petitioner**

VERSUS

- 1) The State of Maharashtra
- 2) The Scheduled Tribe Certificate
Scrutiny Committee Kinwat Division, Headquartered
at Aurangabad, through its Member Secretary ... **Respondents**

...

Advocate for the Petitioner : Mr. Mr. R.K. Mendadkar i/b Mr. Phatale Sagar
S.

A.G.P. for the Respondents/State : Mr. A.S. Shinde

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

DATE : 07.08.2023

PER COURT :

By way of this petition under Article 226 of the Constitution of India read with Section 7(2) of the Maharashtra Act XXIII of 2001, the petitioner is challenging the order passed by the respondent no. 2-scrutiny committee confiscating and cancelling his tribe certificate as '*Mannervarlu*' scheduled tribe by resorting to Section 7(1) of the Act.

2. We have heard both the sides finally in view of the urgency.

3. The learned advocate for the petitioner points out that apart from the several other validities in the family, Yogesh Shivaji Gopulwad who is a blood relation of the petitioner from the paternal side has been granted conditional validity by this Court by order in Writ Petition No. 1523/2022

dated 10.02.2022, which order has been subsequently followed even in the matter of Rushikesh Shivaji Gopulwad and Shivaji Mallaji Gopulwad in Writ Petition No. 2741/2022 in order dated 17.07.2023.

4. The learned advocate for the petitioner precisely points out that the contrary entries being relied upon by the committee while invalidating the petitioner's claim were already subjected to a similar scrutiny at the time of Yogesh and still this Court had granted conditional validity to him as mentioned herein above. If the committee has again resorted to the same reasoning which is almost similar to the one passed in the matters of Yogesh and others, the petitioner also deserves to be treated equally. He submits that the petitioner is ready to run the risk of having a conditional validity. However, so long as the committee does not resort to the procedure established by law for confiscation and cancellation of the certificates of all the blood relatives, the petitioner cannot be deprived of the benefit.

5. The learned A.G.P supports the order. He submits that there are several clinching contrary entries of pre-constitutional period which cannot be overlooked. The petitioner claims to be '*Mannervarlu*' scheduled tribe whereas the old entries are either in the name of '*Mannervar*' or '*Mannerwad*'. The petitioner cannot be permitted to derive the benefit of fraud practised upon the then committee.

6. We have carefully considered the rival submissions and perused the papers. It does appear from the order passed in the matter of Yogesh and others and the one passed in the matter in hand that the committees have resorted to the same set of facts and record, for invalidating the claims, including the old revenue entries as '*Mannerwad*'. If this Court in the matter of Yogesh has still granted validity certificate to him subject to certain conditions, we follow the same course.

7. The writ petition is partly allowed. The impugned order is quashed and set aside. The respondent no. 2- committee shall immediately issue

tribe validity certificate to the petitioner as belonging to '*Mannervarlu*' scheduled tribe, which shall be subject to the final outcome of the matters which the committee intends to reopen in respect of the validity holders.

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

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

mkd/-