

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9474 OF 2023

Yogeshwar s/o Laxman Mantre

...Petitioner

VERSUS

1. The State of Maharashtra
Through its Secretary,
Tribal Development Department, Mumbai.
2. The Scheduled Tribe Caste Certificate
Verification Committee, Aurangabad
Through its Dy. Director (R),
Aurangabad.

...Respondents

...
Advocate for Petitioner : Mr. Sunil M. Vibhute
AGP for Respondents/State : Mr. S. K. Tambe
...

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

DATE : 02 AUGUST 2023

ORDER (MANGESH S. PATIL, J.) :

By way of this writ petition, the petitioner is putting up a challenge to the order passed by the respondent - scrutiny committee in a proceeding under section 6 of the Maharashtra Act No. XXIII of 2001 (**Act**) thereby confiscating and cancelling his tribe certificate of Koli Mahadev scheduled tribe by invoking the powers under section 7(1) of the Act.

2. Heard the learned advocate for both the sides finally in view of the exigency inasmuch as the petitioner who has appeared at NEET-UG-2023 seeking to take admission through the CAP round one and the documents are to be uploaded / furnished by 9 August 2023.

3. The learned advocate for the petitioner submits that there are several validity holders in the family and the petitioner deserves to be issued at least a conditional validity certificate and is ready to run the risk inasmuch as the committee has now decided to re-consider the sustainability of the validity certificates possessed by his father Laxman Madan Mantre, cousin grandfather Dnyanoba Bhagwan Mantre.

4. The learned AGP submits that the petitioner's father and cousin grandfather have obtained the validity certificates by indulging in manipulation and fraud and there are several contrary entries describing several blood relations as Kachar which is a Other Backward Class. The committee in detail has considered all these aspects and has decided to undertake a process of the confiscation and cancellation of the validity certificates of petitioner's father and cousin grandfather.

5. We have carefully considered the rival submissions and perused the papers.

6. So far as the alleged fraud or misrepresentation is concerned, admittedly, those validity holders who had allegedly obtained the validities by resorting to such vitiating circumstances are not before us. When the committee has now taken a decision to re-open their validities, those aspects will be directly and substantially in issue before the committee as to if there was indeed any misrepresentation or fraud while obtaining the validities. Any comment made by us in that regard would have a bearing on that enquiry and is likely to cause a serious prejudice to those validity holders. Therefore, we are consciously avoiding to discuss the circumstances being relied upon by the committee in the impugned order touching the alleged misrepresentation or fraud.

7. In the light of the above, so long as the petitioner's father's and cousin grandfather's validity certificates are not confiscated and cancelled by following the due process of law, the petitioner cannot be deprived of the benefit particularly when he is ready to accept it conditionally by running the risk of the decision to be reached in the re-opened cases.

8. Hence, the following order :

(i) The writ petition is partly allowed.

(ii) The impugned order dated 31.07.2023 passed by the respondent no.2/Scrutiny Committee is quashed and set aside. The Committee shall immediately issue tribe validity certificate to the petitioner as belonging to '*Koli Mahadev*' scheduled tribe, which shall be subject to the decision to be taken by the Committee in the matter which it intends to reopen in respect of the validity holders.

(iii) The petitioner shall not be entitled to claim equities.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/