

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

WRIT PETITION NO. 9738 OF 2023

Swaraj Balaji Kanchewad,
Age :- 18 years, Occu:- Student
R/o Yevti, Tq. Mukhed,
Dist. Nanded.

.. Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary,
Tribal Department,
Mantralaya, Mumbai – 32.

2. The Scheduled Tribe Certificate
Scrutiny Committee, Kinvat,
Head Quarter, Aurangabad
Through its Deputy Director (R).

.. Respondents

Shri Pratap V. Jadhavar, Advocate for the Petitioner.
Shri A. S. Shinde, A.G.P. for the Respondent Nos. 1 and 2.

**CORAM : MANGESH S. PATIL AND
SHAILESH P. BRAHME, JJ.
DATE : 08 AUGUST 2023.**

FINAL ORDER :

. Heard the learned advocate for the petitioner as well as the learned Assistant Government Pleader for respondents finally at the stage of admission since the petitioner is now appearing for NEET-UG-2023 and seeks admission on the basis of tribe certificate.

2. The petitioner is challenging order dated 01.08.2023 passed by the respondent/Committee invalidating his claim as

belonging to 'Mannervarlu' (Scheduled Tribe).

3. After hearing both the sides it transpires that Laxman Ganpatrao Kanchewad, who happens to be the real paternal uncle of the petitioner was issued with the validity certificate first in point of time in the year 2005. Based on that, petitioner's father, one paternal aunt, another paternal uncle Shivaji Ganpatrao Kanchewad, three issues of Shivaji Kanchewad have also been granted validity certificates.

4. The Committee refuses to recognize and grant benefit of the validity of Laxman Ganpatrao Kanchewad to the petitioner on the ground that he was issued with the validity certificate relying upon the validity certificates of his maternal side relatives, which was legally not permissible. In view of such specific reasoning, we have verified from the record of Laxman, the order passed by the then Committee. It is a matter of record that indeed the Laxman had relied upon couple of validities from the maternal side. Obviously those could not have been basis for granting validity certificate to him. However, conspicuously this was only one of the several circumstances and documents relied upon by the Committee while granting him validity by a speaking order. It is not that it was granted only on the basis of these two validities of maternal side relatives.

5. Again, the Committee has vaguely observed in the matter in hand that decision in the matter of Laxman Ganpatrao Kanchewad was not a speaking order. It is not factually correct

as can be seen from the order. Reasons have been assigned and inferences have been drawn after referring the documents. Therefore the observations in the impugned order that, that order was non speaking order is perverse.

6. The Committee has refused to rely upon the subsequent validity in the name of Shivaji Ganpatrao Yeotikar (Kanchewad) another paternal uncle on the ground that it was issued by the Committee whose business the State Government had found to be dubious. Even if that is a state of affair, the decision of the Government to undertake review of all the validities issued by that Committee headed by Mr. V. S. Patil would not per se result in invalidating the certificates issued by it. That would require a further process to be undertaken in the light of Section 7(1) of the Maharashtra Scheduled Castes, Scheduled Tribes, De-Notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000. Till that time even Shivaji's validity would inure to the petitioner's benefit.

7. As far as alleged fraud or deceit which according to the Committee entitles it to reopen the validities is concerned, we are consciously avoiding to make any comment since it would be a matter which will have to be gone into and considered by the Committee if show cause notices are issued to the validity holders. All these validity holders are also not before us. Therefore, we are avoiding to make any comment which would

either cause prejudice to them or would have any bearing on the enquiries to be undertaken by the Committee regarding these reopened matters.

8. The upshot, the petitioner is entitled to have the benefit of several validities in the family, of the blood relation from the paternal side. In view of the above we pass following order.

ORDER

A. The writ petition is partly allowed.

B. The impugned order dated 01.08.2023 passed by the respondent No. 2/Committee is quashed and set aside. The Scrutiny Committee shall immediately issue tribe validity certificate to the petitioner as belonging to 'Mannervarlu' (Scheduled Tribe).

C. The certificate of validity shall be subject to the out come in the matters to be reopened by the Committee in respect of validity holders.

D. The certificate of validity shall be issued in the prescribed format without incorporating other conditions.

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

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]