

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

WRIT PETITION NO. 9953 OF 2023

Shradha d/o Sanjay Mangewad,
Age: 20 years, Occu. : Education,
R/o Sultanpur, Tq. Biloli,
Dist. Nanded.

.. Petitioner

Versus

1. The State of Maharashtra
Tribal Development Department,
Through its Secretary,
Mantralaya, Mumbai-400 001.

2. Scheduled Tribe Certificate Scrutiny,
Committee, Kinwat,
Having its Head Quarter
Office at Aurangabad.
Through its Member Secretary.

.. Respondents

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

**CORAM : MANGESH S. PATIL AND
SHAILESH P. BRAHME, JJ.
DATE : 25 AUGUST 2023.**

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

. Heard both sides finally at the admission stage considering the urgency expressed by the petitioner.

2. The petitioner is assailing the judgment and order dated 29.09.2022 passed by the respondent No. 2/Scrutiny Committee invalidating her tribe claim for being 'Bhil' (Scheduled Tribe).

3. The petitioner is placing reliance upon validity certificates issued to Radhabai Laxman Mangewad and Vishakha Rajendra Mangewad.

4. Per contra, the learned Assistant Government Pleader has opposed the claim of the petitioner by producing on record the original files of the petitioner and validity holder Vishakha. He has shown the school record of Rejendra, Sakhubai and Laxmibai to indicate caste as Koli, which is non tribble. According to him the Scrutiny Committee has not committed any error or perversity. It has taken a plausible view of the matter. The relationship with the validity holder Vishakha is denied.

5. We have considered the rival submissions of the parties. The validity certificates issued to Vishakha and Radhabai are pressed into service by the petitioner. The original papers reveal that Vishakha was issued with the validity certificate by conducting vigilance enquiry. A reasoned order was passed in her favour. Unless her validity certificate is revoked the petitioner cannot be deprived of the benefit of caste status.

6. The learned A. G. P. has pointed out the coloured photo copies of the school record of the relatives of the petitioner to indicate the manipulation and the contrary entries. The genealogy revealed during the vigilance enquiry and proposed by the petitioner are not matching. The self same record was considered earlier and validity certificates were issued to the

family members of the petitioner. The successive committee has no jurisdiction to take contrary view.

7. The submissions of the learned A. G. P. can be gone into by the Scrutiny Committee during the reverification. We are of the view that on the self same record if the committee takes the contrary view and invalidates the claim of the petitioner, it amounts to error of jurisdiction.

8. The impugned judgment and order is unsustainable. The petitioner is entitled to conditional validity. We therefore pass following order.

O R D E R

- a) The writ petition is partly allowed.
- b) The impugned judgment and order dated 29.09.2022 passed by the respondent No. 2/Scrutiny Committee is quashed and set aside.
- c) The respondent No. 2/Scrutiny Committee shall immediately issue caste validity certificate to the petitioner as belonging to “Bhil” (Scheduled Tribe).
- d) Same shall be subject to the outcome of the reverification undertaken by the scrutiny committee in case of validity holders.
- e) The certificate of validity shall be issued in the prescribed

format without incorporating other conditions/additions.

f) The petitioner shall cooperate in reverification of the validity certificates.

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

h) The writ petition is disposed of.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

bsb/Aug. 23