

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

WRIT PETITION NO. 12669 OF 2021

**GIRISH BALWANTRAO PAKALWAD
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Advocate for Petitioner : Mr. A.S. Golegaonkar
i/b. Mr. M.A. Golegaonkar
AGP for Respondent Nos. 1 to 3 : Mr. S.G. Sangale

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

DATE : 07 JULY 2023

PER COURT (PER : SHAILESH P. BRAHME, J) :

1. Heard learned counsel for the parties and considering the urgency in the matter decided finally at the admission stage.
2. The petitioner is challenging judgment and order dated 30 August 2021, passed by respondent Scrutiny Committee invalidating tribe claim of the petitioner for 'Mannervarlu' scheduled tribe. The petitioner relies upon the validity certificates issued in favour of his father Balwantrao, uncle Sanjay and cousin uncle Datta. Other documentary evidence in the form of school record of the relatives, affidavits, reply to the vigilance report, etc. are also placed on record.
3. The Scrutiny Committee invalidated the claim of the

petitioner because there were contrary entries of the relatives of the petitioner, the tribe of the petitioner appears to be 'Mannurwar' but it has falsely recorded as 'Mannervarlu'. The material information was suppressed and the place of residence was incompatible with the claim. It was further recorded that the affinity test was against the petitioner.

4. The validity certificates of the close relatives were discarded by the Scrutiny Committee on the ground that those were procured by giving false information and suppressing facts. Learned AGP, therefore, supports the impugned judgment and order.

5. Learned counsel for the petitioner would submit that there is cogent evidence in the form of validity certificates of father, uncle and cousin uncle of the petitioner. The validity certificates of these relatives are placed on record. The petitioner has explained the contrary entries by way of his reply to the report of Vigilance Officer. The entry of 1960 was considered and, thereafter, validity certificates were issued to the father and uncle.

6. Per contra, learned AGP submits that the validity certificate issued to the father was doubtful. The Scrutiny Committee

was comprising of Mr. B.V. Shirurkar, as one of the members while considering validity of father of the petitioner. He was not competent to be a member of the Committee. Hence, the validity certificate was not reliable.

7. Considering rival submissions of the parties, we are of the considered opinion that in the wake of the validity certificates issued in the favour of father, uncle and cousin uncle of the petitioner, there is very little scope for learned AGP to defend the impugned orders. The contrary entries of 1960 upon which the learned AGP is harping which is at serial no. 19 and 94 are already considered in the matter of father and uncle of the petitioner. The material presently before the Scrutiny Committee is already considered in the matters of earlier validity holders.

8. We do not feel it necessary to again re-consider entire gamut of the matter. We rely upon principles laid down by Supreme Court in the matter of [Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Versus State of Maharashtra and Others](#), 2023 SCC Online SC 326, for accepting the validity certificates of the father, uncle and cousin uncle of the petitioner. Unless their validity

certificates are revoked or cancelled, we cannot take any contrary view in the case of the petitioner.

9. The submission of learned AGP that the validity certificate of father is not reliable because of the composition of the then Scrutiny Committee, is liable to be rejected. It is not permissible for the self same Committee to challenge the composition of the Committee in the subsequent matter. For composition of the Committee at the time of Scrutiny of the caste claim of the father, the present petitioner had no role to play. No fault can be attributed to the petitioner.

10. In our considered view, the Scrutiny Committee committed perversity in rejecting the caste claim of the petitioner. The interference in the impugned judgment and order is warranted.

11. We, therefore, dispose of this Writ Petition in the following manner as follows :

- i. The judgment and order dated 30 August 2021, passed by the Scrutiny Committee is quash and set aside.

ii. The Scrutiny Committee shall issue tribe validity certificate in favour of the petitioner for 'Mannervarlu' scheduled tribe within a period of two weeks from today.

12. The petition is allowed in above terms. There shall be no order as to costs.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

spc/-