

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

901 WRIT PETITION NO. 11216 OF 2019

ABHAY RAMAKANT WARKAD
THROUGH FATHER RAMAKANT NAGORAO WARKAD

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr. Jadhavar Pratap V.
AGP for Respondent Nos. 1 & 2 : Mr. A.A. Jagatkar
Advocate for Respondent No. 3 : Mr. S.G. Karlekar
....

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

DATED : 22 AUGUST, 2023

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

1. Heard both the sides finally at the admission stage.
2. The petitioner is assailing judgment and order dated 14.07.2019, passed by Scrutiny Committee invalidating his claim for 'Mannervarlu' scheduled tribe. The petitioner is relying upon the validity certificate of his father. In view of judgment of the Supreme Court in the matter of *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Versus State of Maharashtra and others*, 2023 SCC Online SC 326, he is claiming parity.

3. Learned AGP supports impugned judgment and order. He submits that the Scrutiny Committee found the school record incompatible with the caste claim. The revenue record and the sale transactions executed and entered into by the relative of the petitioner was inconsistent with the claim of the petitioner. The validity certificate was found to be unreliable. Thus according to him, the impugned judgment cannot be interfere with.

4. It appears from the record that petitioner's father Ramakant was issued with the validity certificate. The relevant record was considered by the vigilance cell and thereafter, the enquiry committed in his matter. Considering the contrary entries, the Scrutiny Committee decided to issue him validity certificate. It is impermissible for the successive Scrutiny Committee to deny the caste benefit to the son of the validity holder. The Committee has committed error of jurisdiction in rejecting the caste claim.

5. Learned AGP is unable to point out any circumstance to restrain us from awarding the benefits of validity certificate of the father to the petitioner. In view of the principles laid down by the Supreme Court *Maharashtra Adiwasi Thakur Jamat Swarakshan*

Samiti (supra), the validity certificate of his father should enure to the benefit of the petitioner.

6. The learned AGP has informed that the Scrutiny Committee is conducting re-verification. The objection of learned AGP in respect of contrary entries or the incompatible record can be gone into by the Committee during re-verification. Unless, the validity certificate of the father is revoked, the petitioner cannot be denied the caste benefit.

7. We find that the impugned judgment and order is unsustainable. We, therefore, pass the following order :

ORDER

- i. The Writ Petition is partly allowed.
- ii. The impugned judgment and order is quashed and set aside.
- iii. The Scrutiny Committee shall forthwith issue tribe validity certificate to the petitioner as belonging to 'Mannervarlu' scheduled tribe, on a condition that the validity certificate shall be subject to final outcome of the re-verification undertaken by the Scrutiny Committee.

- iv. The certificate of validity shall be issued strictly in the prescribed format without incorporating other conditions /additions.
- v. The petitioner shall not be entitled to claim equities.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

SPC/