



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

946 WRIT PETITION NO.10992 OF 2023

Sahil Ansar Shaikh

Age : 20 yrs, Occu : Student,
R/o. Matapur, Tq. Shrirampur,
Dist. Ahmednagar

.. Petitioner

Versus

1. The State of Maharashtra
Through Secretary,
Tribal Social Justice and Special Assistance
Department, Mumbai
2. District Caste Certificate Verification
Committee, Ahmednagar,
Through its Secretary,
Dr. Babasaheb Ambedkar Social Justice
Building, Wing -B, Savedi Naka,
Nagar – Manmad Road, Ahmednagar
3. The Sub Divisional Officer,
Shrirampur, Tq. Shrirampur,
Dist. Ahmednagar

.. Respondents

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Advocate for Petitioner : Mr. Prakash Bhaushaeb Shirsath
AGP for Respondent / State : Mr. S. V. Hange

...

CORAM : MANGESH S. PATIL
AND
NEERAJ P. DHOTE, JJ.

DATED : DECEMBER 14, 2023

PER COURT :

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Heard both the sides finally.

2. The petitioner is once again before this Court aggrieved by the another order dated 17.05.2023 passed by the respondent no. 2 – Scrutiny Committee again invalidating his claim of belonging to “Chapparband” (VJ).

3. It transpires that aggrieved by a similar order the petitioner had approached this Court. He was relying upon couple of validities of individuals stated to be his distant grandfather from the paternal side and their affidavits were also filed before the Committee, but those were not considered. The petitioner was permitted to file a genealogy showing his relationship with the validity holders and the matter was remanded for decision afresh by quashing and setting aside the order.

4. It is now being pointed out that after the remand the petitioner produced the affidavit along with the genealogy (Exh. 'L') indicating his relationship with the validity holders. Respondent No.2 – Scrutiny Committee by the impugned order brushed aside these validities in one line by observing about the petitioner having failed to lead some corroborative evidence to demonstrate the blood relationship with the validity holders.

5. Although by virtue of Section 8 of the Maharashtra Act No.XXIII of 2001 the burden is on the claimant to substantiate the claim,

in our considered view, Scrutiny Committees are also supposed to play active role and cannot remain passive particularly in respect of the cases where the claimants simultaneously rely upon the validities of some individuals. It is not that the petitioner was putting up some blank claim. The validity holders had filed affidavits in his support and had also furnished a genealogy. If such was the state-of-affairs, the Scrutiny Committee itself could have called the papers of the validity holders as is expected in the matter of **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and Ors., 2023 SCC Online SC 326**. The Scrutiny Committee could have undertaken that exercise and ascertained as to what were the circumstances in which the validity holders were given the validities, simultaneously ascertaining, if really, there is something in the file of the validity holders to demonstrate their relationship with claimants.

6. The Scrutiny Committee seems to be oblivious of its responsibilities and even the duties. It has failed to decide the claim objectively in spite of the fact that for the very reason, the matter was remanded to it. Simply saying that there is no proof or corroborating material without disbelieving the affidavit of the validity holder is indeed arbitrary exercise of the *quasi judicial* powers vested in the members of the Scrutiny Committee. The Scrutiny Committee seems to have absolutely ignored its responsibility and particularly, the order of

this Court remanding the matter for decision afresh.

7. Conspicuously, in the light of the observations of this Court in the Writ Petition No.11939 of 2022, the petitioner had filed affidavit giving a detailed family tree showing the validity holders as well. Still the Scrutiny Committee has not even whispered anything as to why this genealogy was not acceptable.

8. In view of such sorry state-of-affairs, we have no option but to remit the matter back to the respondent No. 2 - Scrutiny Committee again for decision afresh in light of the above observations.

ORDER

- (i) The writ petition is partly allowed.
- (ii) The impugned order is quashed and set aside.
- (iii) The matter is remitted back to the Respondent No.2 – Scrutiny Committee for a decision afresh in the light of the above observations and the decision shall be taken as expeditiously as possible and in any case within eight weeks from today.
- (iv) The petitioner shall appear before the Respondent No.2 – Scrutiny Committee on 22.12.2023.

[NEERAJ P. DHOTE]
JUDGE

[MANGESH S. PATIL]
JUDGE