

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

WRIT PETITION NO. 11559 OF 2021

AKSHAYKUMAR MANIKRAO CHERKEWAD

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioners : Mr. C.R. Thorat
AGP for Respondent Nos. 1, 2 & 4 : Mr. A.A. Jagatkar

...

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

DATE : 12 SEPTEMBER 2023

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

1. Heard both the sides finally.
2. The petitioner is challenging the judgment and order dated 20.09.2021, passed by the Scrutiny Committee, invalidating his tribe certificate of 'Mannervarlu' scheduled tribe and confiscating it. The petitioner is relying upon the validity certificate issued to his brother Amol and old school entries of Manik and Vishwambhar.
3. Learned AGP would support impugned judgment and order. He would submit that the Scrutiny Committee has rightly rejected the caste claim considering interpolation in the school record of father and uncle of the petitioner. The Committee is justified in discarding validity

certificate of Amol which is founded on the manipulated record and the record on maternal side.

4. Learned AGP has placed on record the original papers of validity holder Amol and the petitioner.

5. We have considered the submissions of both the sides. There is no dispute that real brother of the petitioner Amol was issued with validity certificate. Learned counsel for the petitioner has shown us vigilance report in the matter of Amol which is at page no. 57. The old school record of 1957 and 1963 of father and uncle of the petitioner was verified. By speaking order Amol was issued with validity certificate. Though validity certificates of maternal side relative namely Vaijnath Santuka Mopde and Ramesh Hanmantrao Govindwar were considered, that was not the only record which was pressed into service to issue validity certificate. Other documentary evidence as well was taken into account.

6. We find that validity certificate was issued to real brother of the petitioner after following due procedure of law. The Scrutiny Committee has committed perversity in discarding the validity certificate. 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, the petitioner is also entitled to validity certificate on the ground of parity.

7. Learned AGP has informed that the Scrutiny Committee has proposed to undertake the verification of the validity certificate of Amol. Learned AGP has referred to the coloured photocopies of the school record of Nagorao, Manika and Vishwambhar to show interpolation. However, the self same record was considered earlier in the matter of the brother of the petitioner. The successive Committee cannot sit over the record as an appellate authority and take contrary view. We find that the Scrutiny Committee has committed error of jurisdiction.

8. The petitioner is entitled to validity certificate conditionally. We hold that the impugned judgment and order is liable to be quashed and set aside. Hence, we propose to pass following order :

ORDER

- i. The Writ Petition is partly allowed.
- ii. The impugned judgment and order dated 20.09.2021, passed by the Scrutiny Committee, is quashed and set aside.
- iii. The Committee shall immediately issue tribe validity certificate to the petitioner as belonging to 'Mannervarlu' scheduled tribe, which shall be subject to the decision to be

taken by the Committee in the matters which it intends to reopen in respect of the validity holders.

iv. The certificate of validity shall be issued 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/