

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

WRIT PETITION NO. 10163 OF 2023

1. Vaibhav S/o Vitthal Totwad,
Age : 23 Years, Occu. : Education,
R/o Umardari, Tq. Mukhed,
Dist. Nanded.
2. Vaishnavi D/o Vitthal Totwad
Age : 21 Years, Occu. : Education,
R/o Umardari, Tq. Mukhed,
Dist. Nanded. .. Petitioners

Versus

1. The State of Maharashtra,
Through Secretary to Tribal
Development Department,
Mantralaya, Mumbai.
2. The Scheduled Tribes Certificate
Verification Committee, Kinwat
Head Quarter at Aurangabad,
through its Deputy Director ®
Aurangabad. .. Respondents

Shri Sunil M. Vibhute, Advocate for the Petitioners.
Shri S. K. Tambe, A.G.P. for the Respondent Nos. 1 and 2.

**CORAM : MANGESH S. PATIL AND
SHAILESH P. BRAHME, JJ.
DATE : 17 AUGUST 2023.**

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

- . Heard both sides finally at the admission stage.
2. The petitioners are siblings of Vitthal Laxman Totwad

whose tribe certificates as belonging to 'Mannervarlu' (Scheduled Tribe) are invalidated by common judgment and order dated 11.08.2023 by the respondent No. 2/Scrutiny Committee. Being aggrieved thereby the petitioners have approached this Court by way of present petition.

3. To support their claims as belonging to 'Mannervarlu' (Scheduled Tribe) reliance is placed upon the validity certificates issued to Shivaji Ramrao Totwad.

4. The learned Assistant Government Pleader supports the impugned judgment and order. He would point out that a tampering was noticed in the school record of the relatives Saraswati Gyanobarao Mupade and Sushila Gyanobarao Mupade. According to him the Scrutiny Committee is justified in discarding the validity certificates. He urges that there is no illegality or perversity in the impugned judgment and order.

5. We have considered the rival submissions of the parties. The petitioners have placed on record the genealogy at page No. 29. There is no dispute that Shivaji Ramrao Totwad is the paternal side relative of the petitioners. There was vigilance enquiry conducted in his matter. The report which is produced on record at page No. 19 discloses that documentary evidence was considered by the Committee. The original file of Shivaji is placed on record. It shows that by reasoned order validity certificate was issued to Shivaji. We find that the validity certificate is issued after following due procedure of law.

6. In view of the judgment of the Supreme Court in the matter of **Maharashtra Adivasi Thakur Jamat Swarakshak Samiti Vs. State of Maharashtra and others** reported in **2023 (2) Mh. L. J. 785**, the Scrutiny Committee has committed patent illegality in discarding validity certificate.

7. The learned A. G. P. would submit that there was manipulation in the school record of Saraswati and Sunita. The Scrutiny Committee has not dealt with the manipulation in the impugned judgment and order. We cannot consider this aspect of the matter in the writ jurisdiction. It is informed that the Scrutiny Committee has issued show cause notices to the validity holders. The Committee can look into the matter during the reverification. The petitioners cannot be denied the equal social status. We hold that the impugned judgment and order is unsustainable.

8. For the reasons stated above, we pass following order.

O R D E R

- i. The Writ Petition is partly allowed.
- ii. The impugned order dated 11.08.2023 passed by the respondent no. 2 – Scrutiny Committee is quashed and set aside.

iii. The Committee shall immediately issue tribe validity certificates to the petitioners 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 strictly in the prescribed format without incorporating other conditions/additions.

v. The petitioners shall not be entitled to claim equities.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

bsb/Aug. 23