

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

WRIT PETITION NO. 10165 OF 2023

Bhushan S/o Rajendra Narwade,
Age : 18 Years, Occu. : Student,
R/o Karkin, Ta. Paithan,
at present R. House No. 1,
Anupam Park, Plot No. 5,
Saraswatinagar, Garkheda
Parisar, Aurangabad,
Dist. Aurangabad.

.. Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai – 32.
2. The Scheduled Tribes Certificate
Scrutiny committee, Aurangabad,
through its Member – Secretary
3. The State Common Entrance Test
Cell, Government of Maharashtra,
Through its Competent Authority. .. Respondents

Shri S. R. Barlinge, Advocate for the Petitioner.

Shri P. S. Patil, Addl.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 considering
the urgency.

2. The petitioner is challenging the judgment and order dated 08.08.2023 passed by the respondent No. 2/Scrutiny Committee invalidating the tribe claim of the petitioner and confiscating the tribe certificate of 'Thakur' (Scheduled Tribe).

3. The petitioner is relying upon the validity certificate issued to his father and other paternal side relatives. The petitioner's sister Priyanka was issued validity certificate by the judgment and order dated 04 November 2020 passed in Writ Petition No. 7487 of 2020.

4. The learned Additional Government Pleader would support the impugned judgment and order. He would submit that the Scrutiny Committee is justified in rejecting the caste claim because the school record was incompatible with the claim of the petitioner. The Committee has rightly discarded the validity certificates because those were procured by suppression of material facts. It is informed by the learned Addl. G. P. that a proposal is forwarded for preferring review against the order dated 04 November 2020 passed by this Court in Writ Petition No. 7487 of 2020.

5. We have considered the rival submissions of the parties. The genealogy which is on record shows that validity certificates are issued to the paternal side relatives of the petitioner including his father and sister. The caste claim of the father of the petitioner was invalidated by order dated 08.06.1992.

Against that Writ Petition No. 334 of 1994 was filed, which was allowed by this Court by judgment and order dated 18 August, 2003. The judgment is on record at page No. 98. In pursuance of that father of the petitioner was issued with the validity certificate.

6. Similar is the case with petitioner's sister Priyanka. By judgment and order dated 04 November 2020 passed in Writ Petition No. 7487 of 2020 a validity certificate was issued to her subject to outcome of review applications proposed to be filed in Writ Petition No. 334 of 1994 and Writ Petition No. 7435 of 2008. It reveals from the judgment of this Court in the case of Priyanka Rajendra Narwade which is at page No. 111 that relevant record was taken into consideration by this Court.

7. It also transpires that the aunt of the petitioner Suman Dattatraya Narwade was issued with the validity certificate after the intervention of the High Court in Writ Petition No. 7523 of 2008 vide order dated 08.06.2018. The judgment is at page No. 101 of the compilation.

8. In the wake of the orders passed by this Court in the matter of Priyanka Rajendra Narwade (sister), Rajendra Narwade (father) and Suman (aunt), it was not permissible for the Scrutiny Committee to discard the validity certificates. The Scrutiny Committee has committed grave error of jurisdiction in rejecting the caste claim. In view of the law laid down by the Supreme Court in the case of **Maharashtra Adivasi Thakur**

Jamat Swarakshak Samiti Vs. State of Maharashtra and others

reported in **2023 (2) Mh. L. J. 785**, the petitioner is entitled to receive the validity certificate conditionally.

9. The learned Addl. G. P. has informed that the proposal is submitted for filing review application against the orders passed by this Court in the matter of Rajendra Narwade and Priyanka Rajendra Narwade. The ends of justice would be met if the Scrutiny Committee is directed to issue validity certificate subject to the decision in the review applications proposed to be filed.

10. We find that the scrutiny committee has committed perversity and patent illegality in rejecting the caste claim of the petitioner. 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 08.08.2023 passed by the respondent no. 2 – Scrutiny Committee is quashed and set aside.
- iii. The Committee shall immediately issue tribe validity certificate to the petitioner as belonging to ‘Thakur’ scheduled tribe, which shall be subject to the decision of review to be filed in High Court against order dated 04

November 2020 passed in Writ Petition No. 7487 of 2020.

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.]

bsb/Aug. 23