

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

Writ Petition No. 10305 / 2023

1. Rohit s/o Gopalrao Shinde
 2. Aaditya s/o Gopal Shinde
 3. Somnath s/o Ganpat Shinde
- ...Petitioners**

Versus

1. The State of Maharashtra,
Through Secretary to
Tribal Development Department,
Mantralaya, Mumbai.
 2. The Deputy Director (Research)
and Member Secretary,
Scheduled Tribe Caste Certificate
Verification Committee, Kinwat,
Headquarter Aurangabad,
Near CIDCO Bus Stand,
Dist. Aurangabad.
- ...Respondents**

Mr. Chandrakant R. Thorat, Advocate for the Petitioner.

Mr. S.G. Sangale, AGP for respondents/State.

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

DATE : 21 AUGUST 2023.

FINAL ORDER [SHAILESH P. BRAHME, J.] :

. Heard the learned Counsel for the respective parties finally.

1. The petitioners are from the same family. Their tribe certificates for Thakar scheduled tribe, were invalidated by a common judgment and order dated 11.08.2023 which is the subject

matter of the present petition. As there is a common record, we propose to decide the matter by common order.

2. The petitioners are relying upon validity certificate issued to Gopal Chandarrao Shinde and old document of 1350 fasli record (1940). The learned Advocate for the petitioners would submit that the old document of pre-constitutional period was verified which is evident at page no. 153. Therefore the document is reliable and would enure to the benefit of the petitioners.

3. The learned AGP supports the impugned judgment and order. According to him, there were number of contrary entries in the form of 1951 census record which is incompatible with the tribe claim. He would point out that the manipulation in the school record of the close relatives of the petitioners to buttress the submission that the Scrutiny Committee is justified in rejecting the caste claim. It is further pointed out that the validity certificate of Gopal is unreliable.

4. The learned AGP has informed us that the Scrutiny Committee has issued show cause notices to the validity holders and the re-verification is proposed. The vigilance report dated 06.04.2023 is sought to be relied upon to make out a point that the school record is incompatible with the claim of the petitioners. The original file of validity holder, Gopal is also produced on record for our perusal.

5. We have noticed that there was vigilance enquiry in the matter of validity holder, Gopal. A report to that effect is at page no.87. The

original paper reveals that a reasoned order is passed in the matter of Gopal. The relevant documentary evidence was taken into account by the Scrutiny Committee before issuing validity certificate. The validity certificate of the Gopal appears to have been issued after following due procedure of law. The Scrutiny Committee committed perversity in discarding the same.

6. The selfsame record was scrutinized by the Committee in the matter of Gopal. The old fasli record having greater probative value was also considered earlier. It is impermissible for the Scrutiny Committee to take contrary view and reject the claim of the petitioners. It amounts to error of jurisdiction.

7. The learned AGP has invited our attention to the contrary entries of census record of 1951. Our attention is drawn by the learned Counsel for the petitioners to Section 15 of the Census Act of 1948 which is on record at page no. 123. The entries in the census record are not admissible in evidence. The Committee has undertaken re-verification. It is open to examine all aspects of the matter and we need not embark an enquiry at this juncture.

8. For the reasons stated above, we hold that the impugned judgment and order unsustainable. Hence, we pass the following order.

ORDER

- (i) The writ petition is partly allowed.
- (ii) The common judgment and order dated 11.08.2023 passed by the Scrutiny Committee is quashed and set aside.

(iii) The Scrutiny Committee shall issue tribe validity certificates of scheduled tribe 'Thakar' in favour of the petitioners forthwith which shall be subject to outcome of the reopened matters.

(iv) The petitioners shall not be entitled to claim equities.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]