

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

41 WRIT PETITION NO. 10308 OF 2023

VASUNDHARA UTTAMRAO AINWAD
VERSUS
THE STATE OF MAHARASHTRA THROUGH
ITS SECRETARY AND ANOTHER

...
Advocate for Petitioner : Mr. Thorat Chandrakant R.
AGP for the respondent – State : Mr. A.S. Shinde
...

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

DATE : 21 AUGUST 2023

ORAL ORDER (MANGESH S. PATIL, J.) :

Heard both the sides finally.

2. The petitioner is challenging the invalidation of her claim as belonging to Mannervarlu scheduled tribe.

3. We have heard both the sides and perused the papers.

4. There is no dispute about the genealogy. One Kerba Sambhji Ainwad happens to be the common ancestor survived by six sons Shivaji, Uttam, Pralhad, Pandurang, Balaji and Shankar. The petitioner is the daughter of Uttam. Four of her paternal uncles, namely, Shivaji, Pralhad, Pandurang and Balaji have been issued with validity certificate in writ petition no. 9040 of 2019 by order dated 21-08-2019. Even Rajeshri has been granted certificate of validity who happens to be the real sister of petitioner.

5. Even if the committee entertains a doubt about the evidence being relied on by the paternal uncle on the basis of which they were issued with the validity certificate, till the time their certificates are not confiscated and cancelled by following process of law, like her sister – Rajeshri even the petitioner is entitled to rely upon and derive the benefit of ***Apoorva D/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee no. 1 and others; 2010 (6) Mh.L.J. 401***. If the petitioner is ready to run the risk apprehending the decision in the matter of ***Shweta Balaji Isankar Vs. State of Maharashtra and others (writ petition no. 6320 of 2017)***, she deserves to be granted certificate of validity subject to the condition.

6. The writ petition is partly allowed.

7. The impugned order is quashed and set aside. The respondent - committee shall immediately issue tribe validity certificate to the petitioner as belonging to 'Mannervarlu' scheduled tribe in the prescribed format without adding anything. The validity shall be subject to the final outcome of the matters which the committee has decided to re-open. The petitioner shall not be entitled to claim equities.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

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