

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

WRIT PETITION NO. 855 OF 2023

**RUPALI PARMESH KOLKONDWAR UNDER GUARDIAN OF
FATHER PARMESH YALAPPA KOLKONDWAR AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Advocate for Petitioners : Mr. Pratap V. Jadhavar
Addl. G.P. for Respondents : Mr. P.S. Patil

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

DATED : 21 June, 2023

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

1. Heard learned counsel for the petitioners and learned AGP for respondents.

2. The petitioners are challenging common judgment and order dated 27 July 2022, passed by respondent no. 2 – Scrutiny Committee, confirming the distinct orders of rejection of their applications seeking caste / tribe certificates passed by respondent no. 3 on 20 April 2022. Petitioners are *inter se* related by blood. They claim to be belonging to the Scheduled Tribe Mannervarlu.

3. The petitioners had applied for issuing tribe certificates. Along with the applications documentary evidence was produced to

substantiate their claim. They had produced tribe certificate of Pallavi Parmesh Kolkondawar, Saikiran Hanmantrao Kolkondawar (Koyalkondwar) and Ramlu Yellappa Koyalkondwar, amongst other evidence. Affidavits, extracts of school register and genealogy were also produced by them.

4. Respondent no. 3 rejected their applications by passing distinct orders on 20 April 2022, holding that no evidence of blood relatives and revenue record prior to 06 September 1950, was produced. The evidence which was produced, was of recent origin. They were not held entitled to receive the certificates.

5. Being aggrieved, the petitioners preferred appeals before respondent no. 2 – Scrutiny Committee. By common judgment and order dated 27 July 2022, the appeals were dismissed, confirming the findings recorded by the competent authority.

6. It was held by respondent no. 2 that surname of the petitioners did not appear to be of Scheduled Tribe Mannervarlu, and the place of residence was not the ordinary place of the Scheduled Tribe. Considering the tendency of taking disadvantage of similarity in

the name and recording false caste while admitting the students in the school, the evidence produced by the petitioners was found to be unsatisfactory.

7. The caste certificates of the blood relatives of the petitioners were discarded because they were not validated by the Scrutiny Committee. Hence, the appeals were dismissed.

8. Learned counsel for the petitioners assailed both the judgments on the ground of arbitrariness, grave error of jurisdiction and patent illegality on the face of the record.

9. We are of the opinion that there was convincing, *prima facie*, evidence on record for issuing caste / tribe certificate to the petitioners. Petitioners' sister – Pallavi, father of the petitioner nos. 3 and 4 – Hanmanlu and other sister – Saikiran were all issued caste certificates. On the ground of parity, the petitioners are entitled to the tribe certificates.

10. The findings recorded in para nos. 4 and 5 were over skeptical and unreasonable. The apprehensions expressed by the

Scrutiny Committee are misplaced. The school record, affidavits and genealogy was sufficient to fortify their claim.

11. Both the authorities below have committed patent illegality in rejecting the claim of the petitioners. They applied wrong parameters to assess the entitlement of the petitioners. Hence, we are inclined to allow the present petition by passing following order :

ORDER

- i. Writ Petition is partly allowed.
- ii. Respondent no. 3 shall issue the tribe certificates to the petitioners in a proper format with correct tribe name within a period of two weeks.
- iii. No order as to costs.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

SPChauhan