

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

980 WRIT PETITION NO. 10437 OF 2023

POOJA VENKATRAO AITWAR
THROUGH GUARDIAN VENKATRAO RAJARAM AITWAR
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Petitioner : Mr. Thorat Chandrakant R.
AGP for Respondents : Mr. S.G. Sangale
....

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

DATED : 22 AUGUST, 2023

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

1. Heard both the sides considering the urgency expressed by petitioner.
2. The petitioner has taken exception to the judgment and order dated 17.08.2023, passed by the Scrutiny Committee invalidating her claim for 'Mannervarlu' scheduled tribe. The petitioner would rely upon the validity certificates, old record and the orders passed by the High Court in Writ Petition No. 2853 of 2023.
3. Learned AGP vehemently opposes the claim of the petitioner. According to him, the Scrutiny Committee is justified in rejecting the caste claim because the school record is incompatible

with the claim. The order of invalidation passed against Gajanan was concealed by the petitioner. The Scrutiny Committee has rightly rejected the validity certificate.

4. We have considered submissions canvassed by both the parties. The genealogy placed on record indicates that father of the petitioner Venkatrao and uncle Rajeshwar were issued with the validity certificates. The vigilance enquiry was conducted in the matter of uncle Rajeshwar. By reasoned order, he was issued with validity certificate. The old record of Rajaram Shekanna Aitwar, indicates caste as 'Mannervarlu'. It has greater probative value and should enure to the benefit of the petitioner.

5. Learned counsel for the petitioner has placed on record the order passed in the matter of Pawan Ashok Aitwar in Writ Petition No. 2863 of 2020. The tribe claim was invalidated by the Scrutiny Committee, which was challenged before this Court and the Writ Petition was partly allowed. The text of the order indicates that the validity certificate issued to uncle of the petitioner Venkat Bhumanna was considered and the benefit was given to Pawan. Other relevant aspects of the matter were also taken into account. In the wake of orders passed on 18.08.2023, in the matter of Pawan Ashok Aitwar, we

are not persuaded by learned AGP to take any contrary view. We also propose to adopt the same course.

6. The submission of learned AGP that Gajanan Ramreddy was denied the caste benefit which was suppressed. An order of invalidation in case of individual may not operate as *res judicata*. The enquiry into the caste claim is individual centric and depends upon the record which is produced before the Committee.

7. We are of the considered view that the petitioner is entitled to validity certificate conditionally. Learned AGP has informed that the re-verification is underway. The ends of justice would be met by directing the petitioner to cooperate with the enquiry of re-verification.

8. We hold that the impugned judgment and order is unsustainable. We, therefore, pass following order :

ORDER

- i. The Writ Petition is partly allowed.
- ii. The impugned judgment and order is quashed and set aside.
- iii. The Scrutiny Committee shall forthwith issue tribe

validity certificate to the petitioner as belonging to 'Mannervarlu' scheduled tribe, on a condition that the validity certificates shall be subject to final outcome of the re-verification undertaken by the Scrutiny Committee.

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.

vi. He shall co-operate with the Scrutiny Committee.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)