

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10647 OF 2023

Aditya s/o Sanjay Thakur

...Petitioner

VERSUS

1] The State of Maharashtra
Department of Tribal Development,
Mantralaya, Mumbai – 32.
Through its Secretary

2] The Scheduled Tribe Certificate Scrutiny
Committee, Aurangabad Division,
Aurangabad, Tq. and Dist. Aurangabad
Through its Member Secretary

...Respondents

...
Advocate for Petitioner : Mr. Yeramwar Sushant C.
AGP for Respondents/State : Mr. A.A. Jagatkar
...

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

DATE : 28 AUGUST 2023

ORDER (MANGESH S. PATIL, J.) :

Heard both the sides finally at the stage of admission.

2. The learned advocate Mr. Yeramwar at the outset points out that the petitioner's real brother Yash has been granted certificate of validity pursuant to the order of this Court in writ petition no. 8358 of 2019 on 18-07-2019, after taking into consideration all the submissions and the material referred to and used by the committee to invalidate his tribe claim.

3. Mr. Yeramwar would further submit that even petitioner's father Sanjay was before this Court in writ petition no. 8411 of 2019, by order dated 11-02-2021, relying upon the decision in the matter of Yash even he was granted the certificate of validity. He would therefore submit that the petitioner deserves to be granted certificate of validity subject to the usual conditions and he is ready to run the risk of facing the consequences as observed in the matter of ***Shweta Balaji Isankar Vs. State of Maharashtra and others (writ petition no. 6320 of 2017)***.

4. The learned AGP fairly concedes that the petitioner's brother and father have been granted certificate of validity pursuant to the orders of this Court. However, he submits that the committee has assigned reasons to demonstrate as to how the certificates of validity relied upon by the petitioner's father and brother were obtained by practising fraud and the committee has decided to re-open those matters.

5. True it is that the committee has now made certain observations to demonstrate as to how the validities being relied upon by the petitioner of his father as well as brother were obtained by practising fraud. However, we do not intend to make any comment on the aspect of the powers of the committee to undertake a review and

the facts which according to the committee constitute fraud or misrepresentation. We are doing so for two reasons; firstly the validity holders are not before us and we do not intend to cause any prejudice to them by making observations in this matter behind their back and secondly, any observation made by us could have a bearing on the matters which the committee has decided to re-open.

6. In the result, till the time there are certificates of validity in the family, the petitioner cannot be deprived of having the same benefit.

7. Hence, the following order:-

(i) The writ petition is partly allowed.

(ii) The impugned order dated 21.08.2023 passed by the respondent no.2/Scrutiny Committee is quashed and set aside. The Scrutiny Committee shall immediately issue tribe validity certificate to the petitioner as belonging to 'Thakur' scheduled tribe.

(iii) It shall be subject to the decision/outcome in the matters to be reopened by the Committee of the validity holders.

(iv) The certificate of validity shall be issued in the prescribed format without incorporating other conditions/additions.

(v) Considering the fact that tomorrow is the last date for submitting certificate of validity and since the matter is being heard and decided urgently, we request the learned AGP to communicate this order to the Committee immediately, since the law officer of the Committee is present in this Court.

(vi) The petitioner shall not be entitled to claim equities.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/