

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10613 OF 2023

Umesh s/o Devidas Marakwad
VERSUS

...Petitioner

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

2] Scheduled Tribe Certificate
Scrutiny Committee, Kinwat,
Headquarter at Aurangabad
Dist. Aurangabad
through its Member Secretary

...Respondents

...

Advocate for Petitioner : Mr. Phatale Sagar S.
AGP for Respondents/State : Mr. S.R. Yadav Lonikar

...

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

DATE : 28 AUGUST 2023

ORDER (MANGESH S. PATIL, J.) :

The petitioner is challenging the order of the scrutiny committee confiscating and cancelling his tribe certificate of Mannernvarlu scheduled tribe.

2. Considering the fact that the petitioner is in urgent need of decision to secure his admission to a medical course, at the joint request, we have taken up this matter for final disposal at the admission stage.

3. We have considered the rival submissions and perused the papers.

4. The committee has been relying upon the record which according to it has been manipulated or concealed deliberately. In substance it observes that the certificates of validity were obtained by misleading the committee and it has decided to re-open those validities.

5. 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. Admittedly, the petitioner's real brother Mahesh is a validity holder. Similarly, petitioner's distant paternal uncle Shivaji Maroti Marakwad is also holder of certificate of validity. In fact, Mahesh has been granted certificate of validity pursuant to the order dated 15.01.2021 of this Court in writ petition no. 8862 of 2019 *albeit* conditionally. We follow the same course more so when this Court has

undertaken an objective scrutiny in the matter of Mahesh while passing the order.

7. In the result, the following order :-

(i) The writ petition is partly allowed.

(ii) The impugned order dated 11.08.2023 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 'Mannervarlu' 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) The petitioner shall not be entitled to claim equities.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/