

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

WRIT PETITION NO. 10736 OF 2023

Aishwarya Venkatesh Rautwar	... Petitioner
Versus	
Scheduled Tribe Certificate Scrutiny	
Committee Kinwat through its	
Member Secretary and another	... Respondents

...

Advocate for Petitioners : Mr. Mahesh S. Deshmukh
 AGP for Respondents : Mr. S.G.Sangale
 Advocate for respondent No. 2 : Mr.M.D.Narwadkar

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

DATE : 31 AUGUST 2023

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

1. Heard both the sides.

2. The petitioner is challenging a judgment and order dated 24.08.2023 passed by the Scrutiny Committee invalidating her caste claim for 'Mannervarlu' scheduled tribe. She is relying upon the validity certificate of Ganpat, Sahebrao, Gangadhar, Venkatesham and Shekhar which is evident from genealogy at page no. 118.

3. The learned AGP supports impugned judgment and order. According to him, the Scrutiny Committee has rightly discarded the validity certificates because there were manipulations and contrary entries in the record of relatives. The school record of the relatives of the

petitioner was incompatible with her claim. There is apparent manipulation in the school record of father.

4. Learned AGP submits that the Scrutiny Committee has decided to reopen the matters of validity holder. To demonstrate the contrary entries, original papers are produced on record.

5. Petitioners father Venkatesham Pandhrinath Rautwar was issued with validity certificate by the Scrutiny Committee by reasoned order. There was vigilance enquiry in his matter. Relevant record was considered. Despite the alleged manipulation in his school record, the validity certificate was issued. Due procedure was followed in the matter of father. The petitioner can rely upon the validity certificate of his father.

6. The caste claim of the petitioner was invalidated against which Writ Petition No. 1993 of 2022 was filed. It was allowed partly and the matter was remanded to Scrutiny Committee. Thereafter, it was again invalidated. The petitioner filed Writ Petition No. 8909 of 2023. By order dated 08.08.2023, matter was remanded to the Scrutiny Committee to examine the veracity of the statement of Ganpat Pandharinath Rautwad.

7. The petitioner filed an affidavit under Order 18 Rule 4 of Code of Criminal Procedure of father of the petitioner disclosing that Ganpat had made a statement during the scrutiny of his children that petitioners father was not his brother. It is explained that petitioners father was not mentioned in the genealogy submitted by Ganpat during the scrutiny of his children. Pertinently, petitioners uncle Ganpat also filed affidavit with genealogy explaining his relationship with the petitioner and her father. Besides that, separate affidavits were filed by children of Ganpat before the Committee.

8. The Scrutiny Committee erred in holding that validity certificate of Ganpat Vyanktesh Rautwar cannot be relied for want of independent vigilance enquiry. The Scrutiny Committee lost sight of the fact that there was corroborative evidence to support the petitioner. Manohar and Swati, children of Ganpat were also issued with validity certificate.

9. We have seen the order of remand dated 08.08.2023 passed by us in Writ Petition No. 8909 of 2023. In pursuance of that the petitioner has placed on record the affidavits and the genealogies. The Scrutiny Committee failed to determine the issue contemplated by order of remand. We have independently considered the material placed on record in the present matter. We hold that petitioners father Vyanketsham

and Gangadhar are real brothers. All the benefits of Ganpat and his children should enure to the petitioner.

10. We have considered original papers of Manohar Ganpat Rautwar. Considering the documentary evidence on record, Manohar was issued with validity certificate. The findings recorded by the Scrutiny Committee that just because Jyoti, Vyankat, Ganpat and Vitthal were not in blood line of father, the validity certificate of Manohar is unreliable, is disapproved.

11. We are of the considered opinion that the petitioner is entitled to conditional validity. The impugned judgment and order is unsustainable. Hence, we pass following order.

ORDER

- i. The Writ Petition is partly allowed. 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.

ii 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.

iii The petitioner shall not be entitled to claim equities.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

spc/