

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

WRIT PETITION NO. 10832 OF 2023

Yogesh Yadav Kolod,
Age 23 years, Occ. Education,
R/o. Dharmabad, Tq. Dharmabad,
Dist. Nanded.

... **Petitioner**

VERSUS

- 1) The State of Maharashtra
Through its Secretary,
Tribal Department,
Mantralaya, Mumbai-32.
- 2) The Scheduled Tribe Certificate
Scrutiny Committee, Kinwat
Headquarter Aurangabad,
Through its Deputy Director (R)

... **Respondents**

...
Advocate for the Petitioners : Mr. Jadhavar Pratap V.
A.G.P. for the Respondents/State : Mr. S. G. Sangale

...
CORAM : **MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**
DATE : **01.09.2023**

PER COURT :

Heard.

2. The petitioner is challenging the order of invalidation passed by the respondent-scrutiny committee.
3. Considering the urgency, we have taken up the matter for final disposal at the admission stage.
4. The learned advocate for the petitioner would submit that the petitioner belongs to Mannervarlu scheduled tribe. There are several validity holders in the family. Common ancestor Hashenna was survived by

two sons Vithoba and Lachmanna and one daughter Rukhminbai. The petitioner is the grand son of Vithoba. Lachmanna's grand children Shrinivas and Laxman and Laxman's daughter Shravani and son Tejas are the validity holders. Shravani and Tejas have been granted certificates of validity by virtue of the order passed by this Court in Writ Petition No. 10692/2023 and the petitioner is entitled to derive the benefit.

5. The learned advocate for the petitioner would further submit that the committee has conveniently ignored the revenue record of the great great grand father Mutyenna Govind Kolod in respect of land Survey No. 107 of the year 1951-1952. It has not commented at all wherein the great great grand father has been described as 'Mannervarlu'. So, besides the validities in the family, this old entry could not have been ignored by the committee. Without referring to it, it has resorted to base its decision on the basis of subsequent contrary entries of Mannervar. The oldest entry ought to have been considered.

6. The learned A.G.P would submit that though the committee has not made any observation in the impugned order, there is a serious doubt about the genealogy. In the matter of Laxman he has not shown the branch of Vithoba to which the petitioner belongs as the real brother of Laxman's grand father Lachmanna. Laxman was issued with show cause notice and in response to that he has filed a reply wherein he has expressly denied the petitioner being related to him by blood. He would, therefore, submit that since Laxman himself is denying the genealogy, the petitioner is not entitled to derive the benefit of the certificates of validity issued to Shrinivas, Laxman and Laxman's issues Shravani and Tejas.

7. We have considered the rival submissions and perused the record. Since without there being any observations by the committee, the learned A.G.P has raised the issue regarding genealogy particularly in the light of the stand being taken by Laxman in his reply to the show cause notice whereby

the committee has called upon to explain as to how the certificate of validity issued to him should not be withdrawn, we intend to take up that issue at the outset.

8. The petitioner has been alleging that one Govind Kolod was a common ancestor who was survived by son Mutyenna. Mutyenna was survived by son Hashenna. According to petitioner, his grand father Vithoba and Lachmanna are the two sons of Hashenna (Aashenna). It does appear that in reply to the show cause notice, Laxman has filed a reply before the committee on 11.01.2023 inter alia mentioning that his grand father Lachmanna had no brother. Vithoba was not the brother of Lachmanna and the petitioner is not related to him but has been falsely demonstrating it.

9. The learned advocate for the petitioner has tendered across the bar a copy of the order passed by the scrutiny committee in the matter of Laxman's brother Shrinivas. He would point out that the committee in that order while rejecting Shrinivas's proposal has referred to the Pahani Patrak of his grand father wherein name is recorded as Lachmanna, Vithoba Mannervarlu. Even a copy of that very Pahani Patrak is also tendered across the bar by the learned advocate for the petitioner wherein in respect of land Sy. No. 107/1, one can find that the common ancestor Mutyenna Govind Kolod is shown to be the holder and the land is stated to be cultivated in the year 1957-1958 by Lachmanna and Vithoba Mannervarlu which corroborates the observations of the committee in the order in the matter of Shrinivas. Conspicuously, even the very same record was available to be seen by the committee and even referred to in the impugned order. However, for the reasons best known to the committee it has overlooked this. It *prima facie* supports the petitioner's version that his grand father Vithoba together with Lachmanna were cultivating the land Survey No. 107/1 that was standing in the name of common ancestor Mutyenna Govind Kolod.

10. Besides, as is observed above, the committee has not disputed this genealogy in the impugned order and the issue is being raised by the learned A.G.P. extempore.

11. Considering the above state of affairs, once the issue regarding genealogy is put at rest, the petitioner being the blood relative of the validity holders Shrinivas Ramlu, Laxman Ramlu, is entitled to derive the benefit. It is not the stand of the committee that no procedure as prescribed in law was followed while granting certificate of validity to the validity holders. In fact, Shravani Laxman and Tejas Laxman have been granted certificates of validity pursuant to the order of this Court.

12. In the circumstances, the impugned order is clearly perverse and arbitrary and is liable to be quashed and set aside.

13. The Writ Petition is partly allowed.

14. The impugned order dated 11.10.2022, passed by the respondent No. 2-scrutiny committee, is quashed and set aside.

15. The committee shall immediately issue tribe validity certificate to the petitioner as belonging to '*Mannervarlu*' scheduled tribe, which shall be subject to the decision to be taken by the Committee in the matters which it intends to reopen in respect of the validity holders.

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

17. The petitioner shall not be entitled to claim equities.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

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