

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**BENCH AT AURANGABAD****Writ Petition No. 11299 of 2023**

1. Yash s/o Balaji Pakalwad
 2. Shital d/o Ravi Pakalwad
 3. Nitin s/o Ravi Pakalwad
 4. Yogesh s/o Vyankatrao Pakalwad
 5. Janhvi d/o Vyankat Pakalwad
 6. Ashish s/o Avinash Pakalwad
- ...Petitioners**

Versus

1. The State of Maharashtra,
Through its Secretary
Tribal Development Department,
Mantralaya, Mumbai.
 2. The Scheduled Tribe Certificate
Scrutiny Committee, Aurangabad,
through its Deputy Director (R).
 3. The Deputy Director (Research)
and Member Secretary,
Scheduled Tribe Certificate Verification
Committee, Kinwat Head Quarter Aurangabad,
Near CIDCO Bus Stand,
Dist. Aurangabad.
- ...Respondents**

Mr. Chandrakant R. Thorat, Advocate for the Petitioners.

Mr. S.G. Sangale, AGP for Respondents/State.

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

DATE : 14 SEPTEMBER 2023.

FINAL ORDER [SHAILESH P. BRAHME, J.] :

. Heard both the sides finally.

1. The petitioners are challenging the common judgment and order dated 08.09.2023 passed by the Scrutiny Committee, invalidating their tribe claim of Mannervarlu scheduled tribe and confiscating the certificate. To support their claim, reliance is placed on record the validity certificates of Balaji, Vyankatrao and Ashwini. The petitioners are harping upon the ground of parity especially in the wake of validity certificate of Balaji, who is first validity holder.

2. The learned Advocate for the petitioners submits that there is school record indicating caste Mannervarlu consistently which was scrutinized earlier in the matter of Balaji and Vyankatrao. He would submit that only reason assigned by the Committee in rejecting the caste claim is the recital of sale deed, disclaiming caste status by cousin uncle of the petitioners. The said reason is unsustainable in view of law laid down by the Supreme Court in the matter of **Bhaiya Ram Munda Vs. Anirudh Patar and Others**, reported in AIR 1971 SC 2533.

3. Per-contra, the learned AGP has opposed the tribe claim of the petitioners. According to him, the validity certificate of Balaji is founded on extraneous material. Another validity certificate of Vyankatrao is not reliable for want of speaking order. According to him, the Scrutiny Committee is justified in relying upon the recitals in a sale instance.

4. The learned AGP has produced on record the original papers of the validity holders Balaji, Vyankatrao and Ashwini. It is informed

that the Committee has intended to reopen the matters of validity holders. It is urged to dismiss the petition.

5. The learned Counsel for the petitioner has referred to the vigilance report of Balaji. The report at page no.77 reveals that as many as twelve documents of the relatives of Balaji were considered, which were indicating caste as Mannervarlu. The original papers reveal that by speaking order dated 22.02.2008, validity certificate was issued to Balaji. It is not a case that only on the basis of validity certificates of Hari Maruti Pakalwad and Gangadhar Tulshiram Pakalwad, the validity certificate was issued to Balaji. The Committee erred in holding that the validity certificate of Balaji is not reliable.

6. We find that a careful perusal of the order passed by the Scrutiny Committee in case of Balaji reveals that the old school record of the period 1960 was referred alongwith other documentary evidence. Balaji is the first validity holder. He is father of the petitioner no.1 and uncle of other petitioners. The validity certificates of Vyankatrao and Ashwini are based upon the validity of Balaji. Though the validity certificates of Vyankatrao and Ashwini are ignored being outcome of non-speaking order, no fault can be found with validity certificate of Balaji. We hold that the Scrutiny Committee committed patent illegality in discarding the validity certificate of Balaji.

7. The selfsame record has already been scrutinized for granting

validity certificate to Balaji. Unless the validity certificate is revoked, petitioners cannot be denied the validity certificates. The Scrutiny Committee has committed an error of jurisdiction in taking a contrary view on the record which suffered a detailed scrutiny. The impugned judgment and order is not sustainable in law. Hence the following order is passed.

ORDER

(i) The writ petition is partly allowed. The impugned order is quashed and set aside. The respondent-committee shall immediately issue tribe validity certificates to the petitioners as belonging to 'Mannervarlu' scheduled tribe in the prescribed format without incorporating anything. The validity certificates 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 petitioners shall not be entitled to claim equities.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]