

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

WRIT PETITION NO. 11709 OF 2019

**ANAND S/O. GANESH @ GANPAT SURYAWANSHI
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

....
Advocate for Petitioners : Mr. A.S. Golegaonkar
a/w. Mr. M.A. Golegaonkar
Addl. GP for Respondent Nos. 1 to 3 : Mr. M.A. Deshpande
....

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

DATED : 21 July, 2023

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

1. Heard learned counsel for both sides and taken up for final adjudication.

2. The petitioner is challenging the impugned judgment and order dated 16 August 2019, invalidating his caste claim for 'Thakur' scheduled tribe. The petitioner is relying upon the validity certificates issued in favour of and other close relatives, the vigilance report in case of his father, order of validation of his father, school record, genealogy and the affidavits.

3. The Scrutiny Committee has invalidated the claim of the petitioner because there were contrary entries of the school record of the blood relatives of the petitioner. The school record of the most of the relatives shows caste as 'Hindu' which is not compatible with the claim of the petitioner. It is transpired from the record that the occupation was reported to be begging. The revenue record was also incompatible with the claim of the petitioner. The surnames of the relatives of the petitioner are also inconsistent with the surnames appearing in the 'Thakur' scheduled tribe. Considering the affinity test the Scrutiny Committee was not satisfied with the claim of the petitioner. The validity certificates were recorded to be procured by suppressing the relevant information and the school records. The place of residence disclosed by the petitioner does not matching with ordinary place of residence of 'Thakur' Scheduled tribe. There was not proof of any migration.

4. Learned AGP would support the impugned judgment and order. According to him, the first validity holder was Sopan. His validity certificate was obtained without following due procedure of law and on a suspicious record. His validity was referred to in the matters of sister of the petitioner. According to the AGP the illegality

was perpetuated. The Scrutiny Committee has taken decision to reopen the validity certificates.

5. Learned AGP placed on record a compilation of photocopies of entries which are purported to be adverse entries in case of Sopan, the revenue record of Sopan and the vigilance report of father of the petitioner.

6. We are of the opinion that at present we cannot comment upon the said material which is produced by learned AGP because the same can be subject to the Scrutiny during re-verification of the caste claim of the father of the petitioner.

7. Having considered the rival submissions of the parties, it transpires that the petitioner is relying upon the validity certificates of his father Ganesh @ Ganpat, sister Aarti, Sopan. The genealogy is already on record, which is not disputed. The validity certificate of his father was issued after following of due procedure of law. There is vigilance report and a reasoned order in case of validity certificate of his father. Therefore, we do not find any reason to disbelieve the validity certificate. We are of the considered opinion that the petitioner

is entitled to have the validity certificate on certain conditions.

8. The submissions of learned AGP regarding the illegality in the validity certificates of Sopan and the suppression of record cannot be gone into in the present proceeding. The Scrutiny Committee has already decided to reopen the validity certificate of the father of the petitioner. The Committee has a discretion to consider the objections during the re-verification. Unless the validity certificate of the father is revoked we have not alternative than to rely upon the same.

9. We hold that the impugned judgment and order suffers from patent illegality and unsustainable. We dispose of the writ petition on the following order :

i. The impugned judgment and order dated 16 August 2019, is quashed and set aside.

ii. The Scrutiny Committee shall issue caste validity certificate to the petitioner for 'Thakur' scheduled tribe within a period of two weeks on following conditions :

a. That the caste validity certificate shall be

subject to outcome of re-verification undertaken by the Scrutiny Committee in case of caste certificate of his father.

b. That the petitioner shall co-operate with the Scrutiny Committee.

c. That the petitioner shall not claim any equity.

10. The Writ Petition is disposed of.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)