

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

WRIT PETITION NO. 12710 OF 2021

Omkar S/o Ganesh Chhabilwad
Age. 23 years, Occu. Education,
R/o: Tanda Bk, Tq. Paithan,
Dist. Aurangabad.

.. Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai
2. The Scheduled Tribe Caste Certificate
Verification Committee Aurangabad,
Through its Member Secretary,
Dist. Aurangabad.
3. The Commissioner & Competent
Authority, Commissionerate of
Common Entrance Test Cell,
Government of Maharashtra,
8th Floor, New Excelsior Building,
A. K. Naik Marg, Fort,
Mumbai.

.. Respondents

Shri Sunil M. Vibhute, Advocate for the Petitioner.
Shri S. G. Sangle, A.G.P. for the Respondent Nos. 1 and 2.

**CORAM : MANGESH S. PATIL AND
SHAILESH P. BRAHME, JJ.
DATE : 01 AUGUST 2023.**

FINAL ORDER (Per Shailesh P. Brahme, J.) :-

. Heard both the sides for final adjudication at the admission

stage considering the urgency in the matter.

2. The petitioner is assailing judgment and order dated 11.11.2021 passed by the respondent No. 2/Scrutiny Committee invalidating the tribe claim of the petitioner along with his other family members as 'Mannervarlu' (Scheduled Tribe).

3. The petitioner is relying on validity certificates issued to Varsha Prakash Chhabilwad, Vrushali Ganesh Chhabilwad, Kaustubh Ganesh Chhabilwad, Gopinath Maldude, Gajanan Maldude and Ganesh Digambar Chhabilwad. Ganesh Digambar Chhabilwad is the father of the petitioner. Vrushali Chhabilwad and Kaustubh Chhabilwad are real sisters and brother of the petitioner. On the ground of parity, he claims validity certificate.

4. The learned Assistant Government Pleader opposes the claim of the petitioner. He points out the contrary entries, manipulation in the school record and the result of the affinity test to dislodge the claim of the petitioner. He further submits to confirm the impugned judgment and order.

5. The petitioner has pointed out the vigilance enquiry in the case of his real sister Vrushali. We find that the proper procedure was followed while issuing validity certificate to Vrushali and other close relatives. We have noticed that the vigilance report is dealt with by the petitioner by submitting reply. The contrary entries showing caste as Maratha are unreliable because concern persons are not relatives of the

petitioner.

6. The learned A. G. P. would submit that there are entries of the census of 1951, which are incompatible with the caste claim of the petitioner. It is further informed that the Committee has decided to undertake reverification. We find that the Scrutiny Committee has discretion to reopen the cases of validity holders. It is not proper while exercising writ jurisdiction for us to comment upon the infirmities shown in the validity certificates.

7. We hold that the impugned judgment and order is perverse and illegal. The writ petition is disposed of by passing following order.

O R D E R

A) The writ petition is partly allowed. The impugned order is quashed and set aside. The respondent/Scrutiny 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 reopened matters.

B) The petitioner shall not be entitled to claim equities.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

bsb/Aug. 23