

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

Writ Petition No. 11596 of 2023

1. Siddhant s/o Sanjay Sakharwad
2. Samarth s/o Sanjay Sakharwad

Through power attorney holder
 Sanjay Subhash Sakharwad

...Petitioners

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 Deputy Director (R).
 Dist. Aurangabad.

...Respondents

Mr. Sunil Mahadevappa Vibhute, Advocate for the Petitioners.
 Mr. S.G. Sangale, AGP for Respondents/State.

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

DATE : 15 SEPTEMBER 2023.

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

. Heard both the sides finally.

1. The petitioners are challenging the judgment and order dated 12.09.2023 invalidating their tribe claim for 'Mannervarlu' Scheduled tribe and confiscating the tribe certificate. The petitioners seek to rely upon the validity certificate of Gangadhar Kishanrao Sakharwad which is issued by following due procedure of law.

2. The learned AGP supports impugned judgment and order. According to him, the Scrutiny Committee is justified in rejecting the caste claim because the school record of the relatives is incompatible with the tribe claim. The entries in the school record of Bhopale Bhagwan Jankiram and Shukre Shivaji Balabhau are found to be tampered. The Scrutiny Committee has rightly discarded the validity certificates which were issued on the basis of the extraneous material.

3. The learned AGP has produced on record the original papers of the validity holder Gangadhar Kishanrao Sakharwad. It is informed that the Scrutiny Committee has proposed re-verification. He would urge to dismiss the petition.

4. We have considered the submissions of the parties. The petitioners are relying upon the genealogy which is at page no.23. The validity holder Gangadhar appears to be cousin uncle of the petitioners. His vigilance report is placed on record. It reveals that the old record was verified by the vigilance officer. The school record of Baburao Deobaji Sakharwad of 1954 and Subhash Deoba Sakharwad of 1956 indicate caste as 'Mannervarlu'. It is also apparent that in the vigilance enquiry, a genealogy was drawn and father of the petitioners figures in the genealogy. We have seen the original papers of Gangadhar. It appears that speaking order was passed on 25.02.2011 issuing validity certificate. The relevant record was taken into account. We find that the validity certificate is reliable one.

5. The Scrutiny Committee has discarded the validity certificate on the ground that it was based upon validity certificate of Shivaji Balabhau Shukre. The reasoned order issuing validity certificate to Gangadhar shows that other documentary evidence was very well appreciated by the Scrutiny Committee and it is not that only validity certificate of Shivaji was relied upon. Therefore, we find that the Scrutiny Committee committed mistake in discarding the certificate.

6. The learned AGP has pointed out the contrary entries as well as manipulation of the school record of Bhagwan Jankiram Bhopale and Shivaji Balabhau Shukre. The petitioners have denied the relationship with these two persons which is apparent from the reply dated 12.09.2023 which is at Exhibit-H. We find that the impugned judgment and order is arbitrary and perverse.

7. After considering self same record, Gangadhar was issued with validity certificate. Unless the said certificate is revoked, petitioners cannot be denied with benefit of same social status. We are of the considered view, that petitioners are entitled to conditional validity. We find that the impugned judgment and order is unsustainable. Hence the following order.

ORDER

- (i) The writ petition is partly allowed.
- (ii) The impugned order is quashed and set aside.
- (iii) The Committee shall immediately issue tribe validity

certificates to the petitioners 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 re-open in respect of the validity holders.

(iv) The certificates of validity shall be issued in the prescribed format without incorporating other conditions/additions.

(v) The petitioners shall not be entitled to claim equities.

(vi) Considering the urgency in the matter, we request learned AGP to communicate this order to the Committee immediately, since the Law Officer of the Committee is present in this Court.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]