

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**BENCH AT AURANGABAD****Writ Petition No. 11816 of 2019**

Mahadev S/o Dhondiba Ghorpade

...Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary
Medical Education and Drugs Department,
Mantralaya, Mumbai.
2. The Scheduled Tribe Caste Certificate
Verification Committee, Aurangabad,
through its Dy. Director (R), Aurangabad.
3. The Dean,
Government Medical College,
Aurangabad.
4. The Registrar,
Maharashtra University of Health
Sciences, Dindori Road, Mhasrul/
Nashik, Dist. Nashik.
5. The Principal,
Yashwant College Nanded,
Tq. & Dist. Nanded.

...Respondents

AND**Writ Petition No. 11812 of 2019**

Ram S/o Dhondiba Ghorpade

...Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary
Medical Education and Drugs Department,
Mantralaya, Mumbai.
2. The Scheduled Tribe Caste Certificate
Verification Committee, Aurangabad,
through its Dy. Director (R), Aurangabad.
3. The Principal,
Vasantrao Naik College,
Jalna Road, Aurangabad.

...Respondents

Mr. Sunil M. Vibhute, Advocate for the Petitioner in both petitions.

Mr. S.G. Sangale, AGP for respondents/State in both petitions.

Mr. J. R. Patil, Advocate for Respondent No.4 in W.P. No.11816/2019

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

DATE : 31 AUGUST 2023.

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

. Heard both the sides finally with the consent of the parties.

1. The learned Advocate for the petitioners requested to call for the papers of Writ Petition No.11812/2019. Hence both the petitions are considered together.

2. Both the petitioners are siblings of Dhondiba Ghorpade. They are assailing common judgment and order dated 18.09.2019 passed by the Scrutiny Committee, invalidating their tribe certificates of Koli Mahadev scheduled tribe. They are relying upon the validity certificate of Gangpat Bajirao Ghorpade which according to them, is reliable, but discarded.

3. The learned AGP would oppose the caste claim of the petitioners. According to him, the Scrutiny Committee has not committed any illegality or perversity in rejecting the caste claim. He would submit that there was manipulation in the school record of Manikrao Ghorpade and Bebitai Ghorpade. The validity certificate of Ganpat Bajirao Ghorpade was found to be based on validity certificate of Santosh Vitthalrao Ghorpade. It was revealed that

there was no relation between them and by misrepresentation, the validity certificate was obtained by Ganpat. It is therefore, urged by the learned AGP that this is not a fit case to upset the impugned judgment and order.

4. We have considered the submissions of the parties. We have also gone through the original papers of Ganpat, a validity holder. It reveals from the record that Ganpat is paternal side relative of the petitioners and a vigilance enquiry was conducted in his matter. A vigilance report is produced on record at page no.42. It can be seen from the report that the old entries of Bajirao was considered alongwith other entries. By speaking order, the validity certificate was issued to him. We deem it proper to rely upon the validity certificate. On the ground of parity, the petitioners are entitled to the validity certificates conditionally.

5. A careful perusal of the file of Ganpat reveals that by a reasoned order, the validity certificate was issued to him. Even if the validity certificate of Santosh Vitthalrao Ghorpade is ignored, there is material on record to support the caste claim. The Scrutiny Committee erred in discarding the caste validity certificate of Ganpat.

6. Unless the validity certificate of Ganpat is revoked, the petitioners cannot be denied the caste benefit. The learned AGP has informed us that show cause notice is issued to Ganpat and re-verification is underway. It is open for the Scrutiny Committee to consider the objections of the learned AGP.

7. In the facts and circumstances, the impugned judgment and order is unsustainable. We propose to pass the following order.

ORDER

- (i) The writ petitions are partly allowed.
- (ii) The common impugned judgment and order dated 18.09.2019 passed by the Scrutiny Committee is quashed and set aside.
- (iii) The Scrutiny Committee shall issue tribe validity certificates of Koli Mahadev scheduled tribe to both petitioners forthwith which shall be subject to the outcome of the re-verification of the validity certificate of Ganpat Bajirao Ghorpade.
- (iv) The petitioners shall not be entitled to claim equities.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]