

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

WRIT PETITION NO. 11749 OF 2023

SUDANSHU NAGESH KACHKALWAR
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Petitioner : Mr. Jadhavar Pratap V.
AGP for Respondents : Mr. A.A. Jagatkar
...

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

DATE : 20 SEPTEMBER 2023

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

1. Heard learned counsel for both the sides finally. The matter is not on board but it is mentioned by learned counsel for the petitioner disclosing urgency as the petitioner aspires to take admission for under graduation. Hence, taken up on production board for final adjudication.

2. The petitioner is assailing judgment and order dated 31.08.2023, passed by the Scrutiny Committee invalidating the tribe claim of the petitioner and confiscating the tribe certificate of 'Mannervarlu' scheduled tribe. The petitioner is relying upon the validity certificates of Sudhakar, Sainath, Sandeep and Sanjay, all are his cousin brothers. Learned counsel for the petitioner submits that after conducting vigilance enquiry, the validity certificate was issued and the self same record was scrutinized already. Hence, the petitioner is entitled to the validity certificates.

3. Learned AGP supports impugned judgment and order. He would submit that the contrary entries are found in the school record of close relatives of the petitioner. Tampering of the school record is also noticed. Therefore, the Scrutiny Committee has rightly rejected the caste claim. According to him, the Scrutiny Committee has rightly held that record of census of 1959 of relatives of the petitioner indicates caste 'Munnurvar' which is incompatible with the caste claim.

4. Learned AGP would submit that the validity certificates are not reliable because they were procured by suppression of material facts and misrepresentation. The validity certificate of Sudhakar is not reliable because it is based upon extraneous material. The Committee has issued show case notices to the validity holders for recalling their certificates.

5. We have considered the submissions of the respective counsel. Learned AGP has produced on record original papers of Sainath Hanmant Kachkalwar.

6. The petitioner is relying upon the genealogy which is at page no. 28 to demonstrate his relationship with the validity holders. The relationship is uncontroverted. Their validity certificates are placed on record. Learned counsel for the petitioner has invited our attention to the vigilance report prepared in the matter of Sudhakar which is at page no.33. A speaking order in his matter is on record which is at page no.42. It demonstrates the consideration of the school record of various

relatives. He was issued with validity certificate after following due procedure of law.

7. The Scrutiny Committee held that the validity certificate of Sudhakar is based on validity certificate of Raju Satynarayan Dyawarwar and Harsha Marutirao Chilkawar and, therefore, not reliable. We disapprove this finding because it is evident that the documentary evidence was also considered by the Scrutiny Committee. The school record of the relatives consistently disclose caste 'Mannervarlu'.

8. We are unable to approve the submission of learned AGP in respect of census record. As per Section 15 of census Act, the record is inadmissible. The Scrutiny Committee, therefore, recorded perverse finding referring to census record.

9. We find that validity certificate of Sainath should enure to the benefit of the petitioner. The Scrutiny Committee has no jurisdiction to reject the caste claim of the petitioner when self same record was earlier scrutinized and validity certificates were issued in the family of the petitioner. It is open for the Scrutiny Committee to conduct re-verification as indicated in the impugned order. However, unless the earlier validity certificates are revoked, the petitioner cannot be denied the benefit of validity certificate. In that view of the matter, we find that the impugned judgment and order is unsustainable. We, therefore, pass following order :

ORDER

- i. The Writ Petition is partly allowed.
- ii. The impugned order is quashed and set aside. The respondent-scrutiny committee shall immediately issue certificate of validity to the petitioner of 'Mannervarlu' scheduled tribe. It shall be subject to the final outcome of the matters which the committee has decided to reopen.
- iii. The petitioner shall not be entitled to claim any equities.

[SHAILESH P. BRAHME, J.]**[MANGESH S. PATIL, J.]**