

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

WRIT PETITION NO. 11807 OF 2023

Harsh s/o Ramvilas Suryawanshi

Versus

1. State of Maharashtra,
through Principal Secretary,
Tribal Development Department,
Mantralaya, Mumbai.
2. Scheduled Tribe Certificate Scrutiny Committee,
Aurangabad Region, Aurangabad,
Plot No.10, E-9, Opposite CIDCO Bus Stand,
Town Center, Aurangabad.
Through its Member Secretary.

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Advocate for Petitioner : Mr. Sagar S. Phatale
AGP for Respondents/State : Mr. A. A. Jagatkar

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

DATE : 21 SEPTEMBER 2023

PER COURT :

Not on Board. Taken on Board on mentioning.

1. The petitioner is challenging the order of invalidation of his claim as belonging to Thakur scheduled tribe.
2. We have heard both the sides finally in view of the exigency.

3. The petitioner's father possess a certificate of validity which was issued pursuant to the order of this Court in Writ Petition No.1875/2003 dated 05.08.2003. Even his sister Mayuri, on the basis of validity of father, was directed to be issued a similar certificate of validity in Writ Petition No.2527/2022 by the order dated 22.02.2022.

4. The Committee in the impugned order has refused to extend the benefit of father's validity to the petitioner by referring to certain circumstances which according to it, would constitute fraud.

5. Since these allegations would be *qua* the validity holder that is the father who is not before us, we do not intend to make any observations regarding sufficiency or otherwise of those circumstances to demonstrate fraud as that would cause serious prejudice to his interest.

6. The fact remains that the petitioner's father was granted certificate of validity pursuant to the order of this Court. So long as the order of this Court is not sought to be reviewed may be relying upon the circumstances referred to by the Scrutiny Committee in the impugned order, till the time that does not happen, the petitioner who is the son, cannot be deprived of deriving the benefit of the validity. More so when it is not the case of the Committee that no procedure described the Rules of 2003 framed under the Maharashtra Act No.XXIII was followed.

Apparently there is no statement even in the impugned order, whereby the Committee has expressed its intention to undertake the exercise of moving this Court, seeking a review of the order passed in the matter of petitioner's father.

7. In the light of above, till the time petitioner's father's validity is in-force, he cannot be deprived of deriving the benefit.

8. The writ petition is partly allowed. The impugned order is quashed and set aside.

9. The Committee shall immediately issue a tribe validity certificate of Thakur scheduled tribe to the petitioner.

10. The order is dictated in the open Court. The learned AGP shall instruct the Committee to issue the certificate of validity to the petitioner during the course of the day.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]