

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

WRIT PETITION NO. 11942 OF 2023

Aryan S/o Babasaheb Kadam,
Age : 18 years, Occu. : Education,
R/o Soundalgaon, Tq. Ambad,
Dist. Jalna. .. Petitioner

Versus

1. The State of Maharashtra.
Through Principal Secretary,
Tribal Development Department,
Mantralaya, Mumbai – 32.
2. Scheduled Tribe Certificate
Scrutiny Committee,
Aurangabad Region,
Aurangabad, Plot No. 10,
E - 9, Opposite CIDCO Bus Stand,
Town Center, Aurangabad,
Dist. Aurangabad,
Through its Member Secretary. .. Respondents

Shri Sagar S. Phatale, Advocate for the Petitioner.
Shri A. A. Jagatkar, A.G.P. for the Respondents/State.

**CORAM : MANGESH S. PATIL AND
SHAILESH P. BRAHME, JJ.
DATE : 10 OCTOBER 2023.**

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

. Heard learned counsel for respective sides finally at the admission stage.

2. The petitioner is challenging the judgment and order dated

20.09.2023 passed by the respondent/Scrutiny Committee invalidating the tribe claim of the petitioner as belonging to 'Thakur' Scheduled Tribes and confiscating the same.

3. The petitioner is relying upon the validity certificate issued to his father Babasaheb and uncle Dadasaheb. He also seeks to rely upon old record of aunt Kamal and uncle Dadasaheb. The learned counsel would submit that after following due procedure of law the validity certificates were issued considering the old record. Hence they are reliable. He would submit that the Scrutiny Committee has committed perversity in discarding the validity certificate.

4. Per contra the learned A. G. P. supports the impugned judgment and order. According to him the scrutiny committee is justified in rejecting the tribe claim in view of the area restriction and finding on affinity test. There is manipulation in the school record of father of the petitioner, Babasaheb. The Scrutiny Committee has arrived at a plausible conclusion on the basis of material on record. The petitioner has failed to make out any case for interference.

5. The learned A. G. P. has placed on record the original papers of father of the petitioner Babasaheb. It is informed that the Scrutiny Committee has proposed reverification of the validity certificates pressed into service by the petitioner.

6. There is no dispute that the petitioner's father Babasaheb

and uncle Dadasaheb were issued with the tribe validity certificates. We are shown the vigilance report conducted in the matter of father of the petitioner. It reveals from the original file of the father of the petitioner that by speaking order he was issued with the validity certificate. There appears to be objective satisfaction of the Committee on the basis of record produced before it. The self same record is under consideration in the present matter. Unless the validity certificates issued earlier are recalled the petitioner cannot be deprived of the same social status. We find that there is perversity in rejecting the tribe claim of the petitioner.

7. We are shown the finding in respect of the great grandfather of the petitioner Balaji Janba Thakur. The old revenue record does not reflect the column of caste. The genuineness of the record is not doubted by the Committee. The revenue record of Namdev Pandurang also does not indicate caste. The revenue record cannot be said to be incompatible with the claim of the petitioner.

8. The Committee has considered the validity certificates of father and uncle of the petitioner. The Committee has proposed to reopen their validity certificates. We are of the considered view that the petitioner is also entitled to validity certificate conditionally. We find that the impugned judgment and order is unsustainable.

9. For the reasons recorded above, we pass following order.

ORDER

1. The writ petition is partly allowed. The impugned order is quashed and set aside. The respondent - committee shall immediately issue tribe validity certificate to the petitioner as belonging to 'Thakur' scheduled tribe in the prescribed format without adding anything. The validity shall be subject to the final outcome of the matters which the committee has decided to re-open.

2. The operative part dictated in open court. The learned AGP shall communicate this order to the respondent – Committee immediately, so that the petitioner gets the certificate of validity today itself.

3. The petitioner shall not be entitled to claim equities.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

bsb/Oct. 23