

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

Writ Petition No. 598 / 2023

Rutuja d/o Yogesh Shinde

...Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary
Tribal Development Department,
Mantralaya, Mumbai.
2. The Scheduled Tribe Certificate
Scrutiny Committee, Aurangabad Division,
through its Member Secretary
Aurangabad.

...Respondents

Mr. Yeramwar Sushant C., Advocate for the Petitioner.

Mr. S. G. Sangale, AGP for respondents/State.

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

DATE : 13 SEPTEMBER 2023.

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

. Heard both the sides finally.

1. The petitioner is challenging the judgment and order dated 15.09.2022 passed by the respondent no.2/Scrutiny Committee, invalidating her tribe claim as belonging to Thakur scheduled tribe and confiscating the same. She is relying upon the orders of High Court in the matters of Vinay and Tejaswini, who are her paternal side relatives. Besides that she is also relying upon validity certificates of other relatives.

2. The learned AGP supports the impugned judgment and order. According to him, the Scrutiny Committee has rightly rejected the tribe claim of the petitioner because the school record was not compatible with the tribe claim. The revenue record does not indicate any resemblance of scheduled tribe Thakur. The petitioner has relied upon the record in which only Thakur is mentioned which is not a scheduled tribe. He would submit that the Scrutiny Committee is justified in discarding the validity certificates because they were procured by suppression of material facts.

3. The learned AGP has informed that the Scrutiny Committee has proposed re-verification of the validity holders. In the alternative, learned AGP would insist to issue validity certificate conditionally only.

4. We have considered the submissions of the learned Counsels for the parties. The learned Counsel for the petitioner has shown us the genealogy which is at page no.35. There is no dispute about the relationship of the persons appearing in the genealogy. It is pointed out that there are near about 16 validity holders in the family of the petitioner. Out of them, validity certificates of Tejaswini and Vinay are issued in pursuance of the orders passed by the High Court.

5. The learned Counsel for the petitioner has invited our attention to the order of the High Court passed in the matter of Tejaswini Rajesh Shinde Vs. State of Maharashtra in Writ Petition No. 8842/2018. The High Court has considered the relevant record and Tejaswini was directed to be issued validity of certificate without

incorporating any conditions. We are of the considered view that it should enure to the benefit of the petitioner.

6. The learned Counsel has pointed out the order passed by the High Court in the matter of Vinay Rajendra Shinde Vs. State of Maharashtra and Others in Writ Petition No.7627/2018. The text of the said order is available at Exhibit-I. A threadbare analysis of the record is made by the High Court. The writ petition was allowed and Vinay was directed to be issued validity of certificate on certain conditions.

7. We find that the validity certificates which are pressed into service by the petitioner are reliable. Unless the validity certificates are revoked, the petitioner cannot be deprived of the social status. We find that the petitioner is entitled to the validity certificate without incorporating any condition.

8. When selfsame record is already considered earlier on number of occasions by the Scrutiny Committee and especially by the High Court in the matters of Vinay and Tejaswini, we find that the Scrutiny Committee committed an error of jurisdiction in arriving at a contrary conclusion on the record which is already assessed.

9. The learned AGP would insist for issuing validity certificates on certain conditions. However, the validity certificate was issued to Tejaswini without incorporating any conditions. We do not find any reason to impose any condition. The Scrutiny Committee has

committed perversity in rejecting the caste claim under these circumstances.

10. We hold that the impugned judgment and order is unsustainable. We, therefore, pass the following order.

ORDER

- (i) The writ petition is allowed.
- (ii) The impugned judgment and order dated 15.09.2022 passed by the Scrutiny Committee is quashed and set aside.
- (iii) The Scrutiny Committee shall issue tribe validity certificate of 'Thakur' scheduled tribe to the petitioner forthwith.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]