

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 14310 OF 2021

Rajesh S/o Machhindra Gadewad

.. 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 Director,
Medical Education and Research,
Govt. Dental College &
Hospital Building, St. George's
Hospital Compound, Near V.T. Mumbai
- 4] The Dean,
Vilasrao Deshmukh Government
Medical College, Latur
Dist. Latur

.. Respondents

...
Advocate for petitioner : Mr. S.M. Vibhute
AGP for the respondent – State : Mr. S.G. Sangale
...

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

DATE : 28 AUGUST 2023

ORDER (MANGESH S. PATIL, J.) :

Since the petitioner is in urgent need of decision to secure admission, the matter is taken up finally at the stage of admission.

2. Petitioner - Rajesh is challenging the order passed by the scrutiny committee confiscating and cancelling his certificate of Mannervarlu scheduled tribe.

3. We have heard both the sides.

4. The learned advocate for the petitioner submits that admittedly, the petitioner's cousin Balasaheb Manikrao Gadewad and Munjaji Uttamrao Gadewad are the validity holders and even if the committee intends to undertake a fresh scrutiny regarding their certificates of validity, till that time, the petitioner cannot be deprived of having the benefit of those validities. He would further submit that the committee has illegally resorted to area restriction and has applied affinity test which it could not have.

5. Mr. Vibhute would further submit that the committee has referred to several individuals who are not related to the petitioner. Even if it is assumed that those are related to petitioner, there are several validities of which the benefit deserves to be extended to the petitioner if the committee is of that view. He would further submit that in any case, till the time the certificates of validity granted to Balasaheb and Munjaji are not confiscated and cancelled, the petitioner being their second degree nephew, is entitled to have the certificate of validity.

6. The learned AGP would strongly oppose the petition. He would submit that the petitioner is taking a convenient stand. When it comes to contrary entries and the forged documents relied upon by the validity holders, he has been disputing the genealogy. He would advert our attention to the genealogy prepared by the vigilance cell which bears signature of the petitioner and his father. He would submit that that the genealogy clearly demonstrates the relationship between petitioner and the original validity holder Manjushri Gangadhar Gadewad. The committee has also noted that there are several other validity holders who had obtained certificates of validity by concealing the fact that the tribe certificate of Surekha Sambhaji Gadewad was confiscated and cancelled. He would submit that the committee has meticulously examined all the earlier validities which according to it were obtained by concealing the contrary record. The committee has now decided to re-open the validities.

7. We have considered the rival submissions and pursued the papers.

8. Admittedly, Balasaheb and Munjaji are the validity holders who are the cousin paternal uncles of the petitioner. Even if the stand of the committee is to be accepted, apart from these two individuals, there are several validity holders. The committee has refused to

extend the benefit of those many validities on the ground that those were obtained by practising fraud.

9. We do not intend to make any comment on the aspect of the powers of the committee to undertake a review and the facts which according to the committee constitute fraud or misrepresentation. We are doing so for two reasons; firstly the validity holders are not before us and we do not intend to cause any prejudice to them by making observations in this matter behind their back and secondly, any observation made by us could have a bearing on the matters which the committee has decided to re-open.

10. Besides, even according to the impugned order, the invalidation of Surekha Sambhaji Gadewad was of 27-08-2004 whereas the certificate of validity was issued to Manjushri Gangadhar Gadewad on 06-01-2003. Even if Surekha's claim was invalidated, there was a validity certificate in the family possessed by Manjushri Gangadhar. Though the committee has observed that Manjushri was granted certificate of validity relying upon the validities of persons who were not related to her by blood from the paternal side but were related to her from the maternal side, the order passed in her file which is made available to us, demonstrates that the certificates of validity of those individuals was not the only basis for granting certificate of validity to her. In the circumstance, even if it is assumed that these

many validity holders starting from Manjushri Gangadhar are from the paternal side, the petitioner would be entitled to have a certificate of validity.

11. The writ petition is partly allowed.
12. The impugned order is quashed and set aside.
13. The scrutiny committee shall immediately issue certificates of validity to the petitioners of Mannervarlu scheduled tribe. The validity would depend upon the final outcome of the matters which the committee has decided to re-open.
14. The petitioner and his relations shall co-operate the committee in early decision of the re-opened matters.
15. The petitioner shall not be entitled to claim equities.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/