

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

WRIT PETITION NO. 13076 OF 2023

Rushikesh S/o Laxman Salve,
Age :- 19 years, Occu. Education,
R/o Wadodchatha, Taluka Sillod,
District Aurangabad. .. Petitioner

Versus

1. The State of Maharashtra,
Through Secretary,
Department of Tribal Development,
Mantralaya, Mumbai – 32.
2. Scheduled Tribes Certificate Scrutiny
Committee, Kinvat,
Through its Member Secretary,
Aurangabad. .. Respondents

Shri Deepak D. Chaudhari and Shri Ramesh B. More, Advocates
for the Petitioner.
Shri A. S. Shinde, A.G.P. for the Respondent Nos. 1 and 2.

**CORAM : MANGESH S. PATIL AND
SHAILESH P. BRAHME, JJ.
DATE : 20 OCTOBER 2023.**

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

- . Heard both the sides finally at admission stage.
2. The petitioner is challenging the judgment and order dated 11.10.2023 passed by the respondent No. 2/Scrutiny Committee thereby invalidating the tribe claim of the petitioner as belonging to 'Koli Malhar' (Scheduked Tribe) and confiscating the tribe

certificate.

3. The petitioner seeks to rely upon the validity certificates issued to his father Laxman and cousin brother and sister Sanjay and Nisha. The learned counsel for the petitioner submits that the validity certificates were issued by following due procedure of law in the family of the petitioner. They should inure to the benefit of the petitioner. The impugned judgment and order is discriminatory. The committee has committed error in rejecting the caste claim.

4. The learned Assistant Government Pleader supports the impugned judgment and order. According to him the Scrutiny Committee has rightly discarded the validity certificates. The Committee has rightly recorded finding regarding the area restriction and affinity test. According to him there is no error of jurisdiction or perversity in rejecting the caste claim of the petitioner. The committee has arrived at a plausible and reasonable conclusion. He would urge to dismiss the writ petition.

5. We have considered the rival submissions of the parties.

6. The genealogy is placed on record at page No. 26 which shows the relationship of the petitioner with the validity holder. The relationship is not disputed by the learned A. G. P. The father of the petitioner is one of the validity holder. The learned counsel for the petitioner has invited our attention to the

speaking order passed in the matter of father Laxman while issuing the validity certificate. He has also invited our attention to the vigilance enquiry report in the matter of cousin Sanjay. Page No. 68 shows the documentary evidence considered by the Committee in his case. Sanjay was also issued with the validity certificate. Similarly by a speaking order in case of Vaijay validity is issued. We have noticed that there is common record considered by the scrutiny committee while issuing validity certificate. The petitioner is entitled to validity certificate considering the self same record.

7. The scrutiny committee should not have discarded the old entries which were already verified by the earlier committee. Unless the validity certificates issued in the family of the petitioner are revoked the petitioner cannot be denied the benefits of the social status.

8. The committee has decided to reopen the validity certificates of the validity holders relied by the petitioner. The scrutiny committee has committed an error of jurisdiction in arriving at contrary decision on the self same record. We are of the considered view that the impugned judgment and order is unsustainable. We therefore pass following order.

O R D E R

A. 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 'Koli Malhar' 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.

B. Learned AGP to communicate this order immediately to the concerned Committee.

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

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

bsb/Oct. 23