

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 13603 OF 2019

Akash S/o Gangadhar Pupalwar

.. Petitioner

Versus

Scheduled Tribe Certificate Scrutiny Committee,
Aurangabad Division, Aurangabad
through its Member Secretary

.. Respondent

...
Advocate for petitioner : Mr. P.V. Jadhavar
AGP for the respondent – State : Mr. A.S. Shinde
...

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

DATE : 28 AUGUST 2023

ORDER (MANGESH S. PATIL, J.) :

Heard finally at the request of both the sides.

2. The petitioner is challenging the order passed by the respondent scrutiny committee invalidating his tribe certificate of Mannernvarlu scheduled tribe.

3. There is no dispute about the genealogy. One Sayanna Gangaram Pupalwar is the common ancestor. He was survived by two sons Shankar and Gangadhar. Petitioner is the son of Gangadhar. Shankar has daughters Shalini and Sandhyarani and son Balaji. Admittedly, Shankar and Shalini both have been granted certificates of

validity *albeit* the committee now observes that those were obtained by resorting to concealment of adverse record and the committee now intends to re-open validities. However, admittedly, till date no final decision has been taken regarding confiscation and recalling of those certificates in the light of the provisions of section 7(1) of the Maharashtra Act No. XXIII of 2001. Till that time, the petitioner cannot be refused the benefit of having a validity.

4. Pertinently, Sandhyarani and Balaji (writ petition no. 7175 of 2023 by order dated 27-07-2023) who are the issues of Shankar have already been directed to be issued with certificates of validity after considering and objectively scrutinizing a similar order passed by the committee in their matters invalidating their claim for the selfsame reason.

5. It is not the case of the committee *albeit* it has made certain observations regarding fraud that the certificate of validity was issued to Shankar and Shalini without following due process of law. Rather, the vigilance was conducted even in the matter of Shalini before the committee decided to issue her certificate of validity.

6. 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.

7. In the result, the following order:-
8. The writ petition is partly allowed.
9. The impugned order is quashed and set aside.
10. The scrutiny committee shall immediately issue certificates of validity to the petitioners of Mannervarlu scheduled tribe. The validity shall be subject to the final outcome of the matters which the committee has decided to re-open.
11. The petitioner and his relations shall co-operate the committee in early decision of the re-opened matters.
12. The petitioner shall not be entitled to claim equities.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/