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

911 WRIT PETITION NO. 6649 OF 2023

Nishant s/o Shyam Chavan,
Age: - 25 years, Occu. Assistant Professor,
R/o. Maregaon Kha, Tal- Kinwat,
Dist. Nanded

....PETITIONER

VERSUS

- 1) The State of Maharashtra,
Through : Secretary,
Social Welfare Department,
Mantralaya, Mumbai
- 2) The Committee for Scrutiny,
And Verification of Tribe Claim,
Nanded, Tq. & Dist. Nanded
- 3) Dr. Babasaheb Ambedkar Research
and Training Institute (BARTI)
28 Queens Garden,
Near Old Circuit House,
Pune, Tal. And Dist. Pune

....RESPONDENTS

....

Mr Yogesh Rajendra Neb, Advocate for Petitioner;
Mr S. K. Tambe, A.G.P. for Respondents/State

**CORAM : RAVINDRA V. GHUGE
AND
Y. G. KHOBRAGADE, JJ.**

DATE : 26th June, 2024

ORAL JUDGMENT : (PER : Ravindra V. Ghuge, J.)

1. Rule. Rule made returnable forthwith and heard finally by the consent of the respective sides.

2. The only issue that crops up in this matter, notwithstanding that the close relatives have been granted validity certificates, is that, the very certificate of belonging to the 'Beldar-2' Nomadic Tribe (B), is issued by an Authority, which did not have the jurisdiction to grant such a certificate. The Petitioner submits that, he has obtained the certificate from the Sub Divisional Magistrate, Kinwat, Nanded office. The learned A.G.P. submits on instructions and on the basis of the record that the Petitioner belongs to Yawatmal District and since his origin is from the Yawatmal, the certificate will have to be issued only by the Yawatmal Authority. His father's original record shows that he is a permanent resident of Yawatmal.

3. The Petitioner is a 25 years old Assistant Professor of Economics, serving in one of the reputed Colleges in Maharashtra, namely, Ness Wadia, Pune. He has passed his

(3)

N.E.T. and S.E.T. Examinations. He is rendered a Cancer survivor at the age of 18 years and is 25 years of age today.

4. The Petitioner's father, namely, Shyam Dashrath Chavan has received a tribe validity certificate, dated 28/09/2012 from the Competent Committee. The Tribe certificate is issued by the Sub Divisional Magistrate, Kinwat. His brother Prashant Shyam Chavan has also received a validity certificate on 29/04/2024, from the same District Caste Certificate Scrutiny Committee, Kinwat, which has rejected the claim of the Petitioner by the impugned orders dated 30/06/2022 and 08/03/2023. The learned Advocate for the Petitioner submits that, after the first rejection of his claim on 30/06/2022, he was permitted to once again apply and that led to a second rejection, dated 08/03/2023.

5. The learned Advocate for the Petitioner submits that, the only ground for the rejection of his claim is that, the School record of his father Shyam has its origin at Shivar, Post Borgaon, Taluka Digra, District Yawatmal. However, he submits that his father was taking education in an Ashram School and that is how he landed in the primary Ashram School at Wadgaon, Taluka

(4)

Digras, Dist. Yawatmal. His father is unaware as regards his place of birth and does not have any record to indicate this aspect. This is a categoric statement made on instructions.

6. He further submits that, even the brother of the Petitioner, namely, Prashant has received a tribe certificate from the Sub Divisional Magistrate, Kinwat, District Nanded. His contention, therefore, is that in the light of these aspects, the same Committee which granted validity certificate to his biological brother Prashant, on 29/04/2024, could not have passed the order dated 08/03/2024, concluding that the Petitioner's tribe certificate is issued by an Authority which did not have the jurisdiction to do so.

7. The learned A.G.P. has vehemently opposed this Writ Petition on the basis of the record. However, he cannot have an explanation, as to why the Competent Committee, that rejected the claim of the Petitioner, subsequently granted the claim of his biological brother Prashant. Nevertheless, he submits that, because the school record of the Petitioner's father originates from Borgaon, Taluka Digras, the certificate issued to his father

(5)

Shyam, as well as his brother Prashant, may not be sustained. He further submits that, after this Court grants validity to the Petitioner, there is a possibility that other blood relatives would rely upon this judgment and take undue advantage.

8. In **Apoorva Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No.1 and others; 2010 (6) Mh. L.J. 401**, this Court concluded that, when close blood relatives have been granted validity certificates, a claim of a blood relative from the paternal side, cannot be refused. If blood relatives belong to a particular caste or tribe, the claim of the Petitioner is bound to be upheld unless a fraud is discovered and in which case the Committee can look into the validity certificates granted earlier.

9. In **Shweta Balaji Isankar vs. The State of Maharashtra and others, 2018 SCC OnLine Bom 10363** (Writ Petition No.5611/2018), decided on 27/07/2018, this Court has concluded that, in such circumstances, a conditional validity certificate can be granted. If validity certificates of those candidates, on which the Petitioner rests his claim, are subjected

(6)

to reopening of their cases and if they suffer adverse orders, the same consequences would be attracted in the case of the Petitioner.

10. In view of the above, **this Writ Petition is partly allowed.** The impugned orders are quashed and set aside. The District Caste Certificate Scrutiny Committee, Nanded is directed to issue the 'Beldar-2' Nomadic tribe (B) validity certificate to the Petitioner, within 30 days. It is made clear that, if the case of the Petitioner's father Shyam or his biological brother Prashant is/are reopened, and if they suffer adverse orders, the case of the Petitioner would also be reopened and he will also suffer the same consequences.

11. Rule is made partly absolute in the above terms.

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)

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