



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

Writ Petition No. 6724 / 2024

Ankita Sayareddy Pupalwar
Age 19 years, Occu. Student,
R/o: Kundalwadi, Tq. Biloli,
Dist. Nanded.

...Petitioner

Versus

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

...Respondents

Mr. Yengure Apparao Prakash, Advocate for the Petitioners.

Mr. R.S. Wani, AGP for Respondent No.1 and 2/State.

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

DATE : 11 JULY 2024

ORAL JUDGMENT [Per: Shailesh P. Brahme, J.] :

. Rule. Rule is made returnable forthwith. Heard both the sides finally at the admission stage.

2. Petitioner is challenging judgment and order dated 19.06.2024 passed by the Scrutiny Committee, confiscating and invalidating her tribe

certificate. Her claim for scheduled tribe 'Mannervarlu' is invalidated, considering the contrary entries and manipulation in the school record of Gajendra Rajanna Pupalwar. The validity certificate of Rajesh Rajanna Pupalwar is discarded, holding that it was procured by suppressing material facts.

3. In view of affinity test and the information regarding place of residence of petitioner and her forefather, her claim is rejected. Lastly the claim is invalidated because the sale purchase transaction of Gangadhar Rajanna would indicate a clause of disclaimer of scheduled tribe.

4. Learned Counsel for the petitioner would rely upon validity certificate of Rajesh Rajanna Pupalwar, who is paternal side relative as per the genealogy produced on record. He was issued with validity certificate on the basis of vigilance inquiry. According to petitioner, the validity certificate of Rajesh is reliable one. He places on record a coloured photocopy of the extract of the school record of Gangadhar Rajanna to show that there is no manipulation and there is a clearcut entry of Mannervarlu of 20.08.1957. Learned Counsel submits that the reason assigned for discarding the mutation entry is wholly unsustainable as the Committee failed to solicit the opinion of handwriting expert.

5. Learned AGP Mr. R.S. Wani would place on record original papers of petitioner and earlier validity holder, Rajesh. He would submit that sale deed of Gangadhar would indicate that petitioner and her forefathers are not belonging to scheduled tribe. He would support the findings regarding place of residence and affinity test. He would draw our attention to the

coloured photocopy of extract of the school record of Gangadhar to buttress the stand that there is manipulation and the entry is suspicious. It is vehemently submitted that the tribe certificate of petitioner's father, Sayareddy Sayanna Pupulwar was invalidated which is suppressed and therefore the validity certificate of Rajesh is not reliable one.

6. Learned AGP would further submit that the Committee has proposed to reopen caste claim of Rajesh Rajanna. It is strenuously submitted that in case of Rajesh, Scrutiny Committee passed cyclostyle order without assigning reason for granting him validity certificate. It is further submitted that the Scrutiny Committee was unable to verify the record properly because the petitioner had taken out proceedings of contempt for flaunting the direction issued by High Court in Writ Petition No.3168/2004. For want of adequate time, all aspects could not be considered by the Committee as the timeline was required to be followed.

7. Learned AGP would rely upon the following judgments :

- I Prasad Laxmanrao Paratwad Vs. State of Maharashtra & Ors.
Writ Petition No.653/2023
- II Jyoti Sheshrao Mupde Vs. State of Maharashtra & Ors.
Writ Petition No.1954/2009
- III Rajeshwar Baburao Bone Vs. State of Maharashtra & Anr.
Writ Petition No.5160/2012
- IV Rajeshwar Baburao Bone Vs. State of Maharashtra & Anr.
(2015) 14 SCC 497
- V Satluj Jal Vidyut Nigam Vs. Raj Kumar Rajinder Singh (dead)
Through legal representatives and Ors. (2019) 14 SCC 449

VI Chaitanya d/o Sanjay Palekar Vs. State of Maharashtra & Ors.
Writ Petition No.8531/2022

8. We have considered the rival submissions. We have gone through the original papers produced by learned AGP. It transpires from record that petitioner's caste claim was pending before the Scrutiny Committee and petitioner was required to file Writ Petition No.3423/2024, soliciting direction to decide her caste claim expeditiously. The claim was directed to be decided within two months, vide order dated 02.04.2024. As the claim was not decided within stipulated period, the petitioner was required to file contempt proceeding.

9. The petitioner's claim was pending since 04.09.2023. Hence the Committee was directed to decide it within two months vide order dated 02.04.2024. No explanation is coming-forth by the Scrutiny Committee as to why the claim could not be decided from 04.09.2023. Committee had adequate time at its disposal. Therefore, the submission of learned AGP that adequate time was not available to decide the claim cannot be countenanced.

10. The genealogy placed on record by the petitioner has not been disputed by the respondents. Petitioner relies on the validity certificate issued to Rajesh Gangadhar Pupalwar who is paternal side relative falling in the branch of Rajanna. We have gone through the papers of Rajesh. It reveals that vigilance inquiry was conducted and report was submitted in his matter. Considering the report, a reasoned order was passed by the Scrutiny Committee granting validity certificate to him. In that case a

reliance was placed on the validity certificate issued to Rajeshwar Gangadhar Pupalwar and Krushnavenu Gangadhar Pupalwar. Unless and until the validity certificate of Rajesh is revoked, it would not be possible to deprive the petitioner from similar social status.

11. The place of residence of the claimant and her forefather is not a deceive factor because of passage of time, migration, education and occupation of the members of the scheduled tribe, there is every possibility of migration from original place of residence and therefore we do not approve the submission of the learned AGP in this regard. Similarly the submission regarding affinity test also cannot be accepted because of law laid down by Supreme Court in the matter of **Maharashtra Adiwas Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and Ors.**, 2023 SCC Online SC 326.

12. Though learned AGP has criticized the order passed in the matter of Rajesh, in the impugned judgment and order, the Scrutiny Committee has not commented anything about the manner in which the order was passed. The Committee only observes that Rajesh was issued with validity certificate suppressing earlier invalidation in the matter of petitioner's father. If its a case of suppression of relevant material or fraud then it would be open for the Scrutiny Committee to undertake reverification of the validity certificate of Rajesh.

13. Both the parties have placed heavy reliance on the old school record of Gangadhar Rajenna of 1959. The relationship of Gangadhar with

the petitioner is not disputed. The school entry of Gangadhar was referred to the vigilance inquiry. We have gone through the vigilance report in respect of the entry. The Scrutiny Committee has reproduced the objections in the vigilance report. Both the parties have made available coloured photocopies of the entry in question. After perusing the entry, we find that factually incorrect findings have been recorded by the Scrutiny Committee. We do not find that there was any change of ink or handwriting while carrying out the entry in question and other entries.

14. The Scrutiny Committee blindly relied upon the vigilance report in respect of entry of Gangadhar. If the Scrutiny Committee was having any doubt, then the entry could have been referred to the opinion of handwriting expert. No independent inquiry was made by the Scrutiny Committee to ascertain genuineness of the entry. The concerned Headmaster of the school could have been called upon to ascertain the genuineness. This is the abdication of the jurisdiction by the Committee. We are of the considered view that the entry in question would support the claim of the petitioner.

15. Learned AGP has referred to judgment of Prasad Laxmanrao Paratwad (supra) and more specifically paragraph nos. 32 to 34. We do not find any similarity of the facts. We do not find that Rajesh's order was a copy paste cyclostyled order. The judgment would not enure to the benefit of the respondents.

16. Reliance is placed on the judgment in the matter of Jyoti Sheshrao Mupde (supra). The facts of the case before the Division Bench are

distinguishable. Learned AGP would also refer to judgment in the matter of Satluj Jal Vidyut Nigam (supra). Paragraph No.68 and 75 are referred to show that it is a case of fraud and Scrutiny Committee has jurisdiction to invalidate the claim, though there is earlier validity certificate. The present case is not that of fraud. No material is demonstrated by the respondent to indicate fraud on the part of the petitioner. For this reason alone, the judgments are not applicable. Then reliance is placed on judgment in the matter of Chaitanya Sanjay Palekar (supra). In that matter, the tribe certificate of petitioner's father was invalidated and suppressing this fact the validity certificate was procured by him at later point of time. Therefore it was held to be a fraud. The facts in the present are totally different and the judgment is not applicable.

17. Learned AGP has referred to the averments in the sale deed to show that paternal side relative of the petitioner, had stated to be not belonging to scheduled tribe. It is a common knowledge that such type of averments in the sale deed are made to avoid the stamp duty. These averments cannot be decisive factor for deciding the social status. We do not approve the submission of learned AGP in this regard.

18. We find that impugned judgment and order is wholly unsustainable. We, therefore, pass following order :

ORDER

- I. The impugned judgment and order is quashed and set aside.
- II. The respondent no.2/Scrutiny Committee shall issue tribe validity certificate of 'Mannervarlu' scheduled tribe to the petitioner forthwith.

- III. The validity certificate shall be subject to outcome of the re-verification undertaken by the Scrutiny Committee in case of earlier validity holders.
- IV. The petitioner shall not claim equities.
- V. Rule is made absolute in above terms.

SHAILESH P. BRAHME
JUDGE

MANGESH S. PATIL
JUDGE

Ngjeeb..