



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

962 WRIT PETITION NO. 8391 OF 2024

SAURABH RAMDAS BHOSALE

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for Petitioner : Mr. Yeramwar Sushant C.

AGP for Respondents : Mrs. P.J. Bharad

...

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

DATE : 14 AUGUST 2024

PER COURT [*Shailesh P. Brahme, J.*] :

Considering the exigency in the matter, we propose to decide this matter finally at the admission stage.

2. Petitioner is taking exception to the judgment and order dated 02.08.2024 passed by the Scrutiny Committee confiscating and invalidating his tribe certificate for scheduled tribe 'Thakur'. He relies upon validity certificate of his father. He also relies on pre-constitutional school record of his grandfather Karbhari which was duly scrutinized. There is revenue record of Fasli 1348 of Ramchandra Dharma Thakur and Bhau Darma Thakur. It has already been scrutinized while issuing validity

certificate to his father. He is claiming validity on the ground of parity.

3. Learned AGP tenders on record original papers of validity holder Ramdas. It is submitted that validity certificate of the father is rightly discarded by the Committee because it was secured by misrepresentation and suppressing material facts. His validity was based on the validity of matrimonial side relative and is liable to be discarded. The constitution of the Committee which issued validity certificate to the father was not in accordance with law. It is further contended that the petitioner failed in affinity test.

4. We have considered rival submissions and also gone through original papers of validity holder Ramdas. It reveals that vigilance enquiry was conducted in the case of Ramdas. The school record of Karbhari who is the petitioner's grandfather was considered and was found to be genuine. He was issued with validity certificate by a speaking order of the Scrutiny Committee. Though validity certificate of Nilesh Dattaram Bhosale was relied on who was found to be matrimonial side relative, the certificate cannot be altogether discarded because other material was also considered by the Committee. We are of the considered view that

the validity certificate of Ramdas was issued after following due procedure of law. It would enure to the benefit of the petitioner.

5. The petitioner is relying on pre-constitutional entry of Karbhari of 1945. It has greater probative value in view of law laid down in *Anand Versus Committee for Scrutiny and Verification of Tribe Claims and Others*, (2012) 1 SCC 113. The Committee should not have rejected the tribe claim of the petitioner.

6. The self same record was considered by the Committee and validity was issued to petitioner's father. Unless the validity is recalled, the petitioner cannot be denied the validity certificate. Affinity test is not a decisive or a litmus test as is laid down by Supreme Court in the matter of *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Versus State of Maharashtra and others*, 2023 SCC Online SC 326.

7. Another objection of learned AGP is that the constitution of the Committee which issued validity certificate to the petitioner's father is not in accordance with law also cannot persuade us from causing interference in the impugned judgment and order, when as per Rule 9 of the Rules framed under

Maharashtra Act XXIII of 2001, clearly states that the decision of the Scrutiny Committee shall be by majority and the objection is only to one of the three members.

8. The petitioner is ready to run the risk and abide by the law laid down in the matter of *Shweta Balaji Isankar Versus State of Maharashtra and others*, passed by this High Court in Writ Petition No. 5611/2018. He deserves validity certificate conditionally. Impugned judgment and order is liable to be quashed.

9. Writ Petition is allowed partly. Impugned judgment and order is quashed and set aside. The respondent – Scrutiny Committee shall issue validity certificate to the petitioner which shall be subject to outcome of reverification of the validity of petitioner's father. Petitioner shall not claim any equity.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]