



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8945 OF 2024

Atharva S/o Vitthal Ghatе
Age : 17, Occu : Student
Through his natural guardian
Vitthal Shankar Ghatе
R/o Aurad, Tq. Umarga,
Dist. Dharashiv

.. Petitioner

Versus
The State of Maharashtra
and another

.. Respondents

...
Advocate for petitioner : Mr. Vivekanand U. Jadhav
AGP for the respondent – State : Mr. S.R. Yadav - Lonikar
...

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

DATE : 4 SEPTEMBER 2024

ORAL ORDER (SHAILESH P. BRAHME, J.) :

Heard both sides finally, considering the urgency.

2. The petitioner is assailing the judgment and order dated 08-08-2024, invalidating his tribe certificate.

3. The petitioner seeks to rely on validity certificate issued to his father - Vitthal, cousin uncle - Balaji and one Murlidhar Sudhakar Ghatе. It is submitted that his father - the first validity holder was issued the validity certificate after following the due procedure of law and it would enure to his benefit. It is further submitted by learned counsel for the petitioner that during vigilance enquiry, contrary entries

were also considered and thereafter the validity certificate was issued. The petitioner is ready to run the risk as contemplated in ***Shweta Balaji Isankar Vs. State of Maharashtra and others*** (writ petition no. 6320 of 2017) and, therefore, he deserves to be issued with conditional validity certificate.

4. Learned AGP supports the impugned judgment and order. He would submit that validity certificate of the petitioner's father and cousin uncle were rightly discarded by the committee. He would point out incompatible school record of the close relatives of the petitioner was suppressed while issuing validity certificate to petitioner's father - Vitthal. He would also point out the manipulation of the school record of the close relative. In such fact situation, it is contended that the committee has issued show cause notices to the validity holders and, therefore, the petitioner is not entitled to seek any benefit from the validity in the family. It is further submitted that Vitthal was issued with validity certificate considering census record of 1957 which is not admissible. The affinity test is also recorded against the petitioner. Considering these circumstances, he would pray that the petition is liable to be dismissed.

5. So far as the contention of the learned AGP is respect of affinity test is concerned, it is trite law that it not a decisive test. It is inconsequential in the given facts and circumstances.

6. We have considered the rival submissions advanced across the bar. There is no dispute about petitioner's father Vitthal is the first validity holder. Vigilance enquiry was conducted in his matter which shows that even the contrary entries of Subhash Yadavrao Ghate and Sudhakar Sidram Ghate were considered by the committee and, thereafter, by a reasoned order, he was issued with validity certificate. His validity certificate is still intact.

7. Now, the committee has proposed re-verification. Unless and until the validity certificate issued to petitioner's father is revoked, petitioner cannot be deprived of the same social status. As the committee has issued show cause notice to the validity holder and the re-verification is underway, it would be upto the committee to take into account the incompatible school record or tampering of the school record which was noticed so as to decide as to whether there is any suppression of the material facts or fraud. Same is the position with the inadmissible evidence which was considered at the time of issuing certificates of validity to the validity holders.

8. We find that the selfsame record has already been considered while issuing validity to petitioner's father and cousin uncle. Therefore, the petitioner is entitled to receive the validity certificate on

the ground of parity. The petitioner is ready to run risk in view of ***Shweta Balaji Isankar*** (supra).

9. We find that the impugned judgment and order is unsustainable and, therefore, we pass the following order :

ORDER

- I) Writ petition is allowed partly.
- II) Impugned judgment and order is quashed and set aside.
- III) The committee shall issue validity certificate to the petitioner which shall be co-terminus with the validity certificates of the earlier validity holders.
- IV) Petitioner shall not claim any equities.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/