



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

WRIT PETITION NO. 9966 OF 2018

Priyanka Raju Mamilwad .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Sunil M. Vibhute, Advocate for the Petitioner.

Shri A. R. Kale, Addl.G.P. for the Respondent Nos. 1 to 3.

Shri S. G. Karlekar, Advocate for the Respondent No. 4.

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

DATE : 03 SEPTEMBER, 2024.

FINAL ORDER :

. The petitioner is challenging the order passed by the respondent No. 2/Scrutiny Committee in the proceeding U/Sec. 7 of the Maharashtra Act No. XXIII of 2001, refusing to validate her 'Koli Malhar' Scheduled Tribe certificate.

2. We have heard both the sides.

3. It transpires that the petitioner has been relying upon the validity of one Gajanan Maroti Mamilwad. Even the original file of the petitioner made available to us apparently contains a copy of the affidavit purportedly filed by him substantiating the petitioner's claim and expressly disclosing the relationship between the two. However, the learned Addl. G. P. would submit

that though the Committee has not entertained any doubt in respect of the relationship between the petitioner and Gajanan *inter se*, the original file of Gajanan contains a communication received from him dated 28 September 2018 expressly stating that the petitioner is not related to him. He would submit that in view of such stand being taken by the validity holder, there being no scrutiny about the relationship between the petitioner and Gajanan, the matter may be remanded, as otherwise there is no sufficient and cogent evidence to substantiate her claim of belonging to Koli Malhar (Scheduled Tribe) and even the affinity test has gone against her.

4. The learned advocate for the petitioner does not oppose the request for remand.

5. Since the parties are unanimous, we can easily relegate the petitioner to the Committee for a fresh enquiry. However, it would be apposite to note the manner in which the enquiry has been conducted.

6. Admittedly, the petitioner furnished a genealogy in support of her claim and sought to rely upon validity possessed by Gajanan. Even a copy of his affidavit purportedly filed by him is available to be seen in her original file with the Committee. However, conspicuously the vigilance enquiry report does not demonstrate about any enquiry having been conducted by the vigilance officer to verify and ascertain if really there is any blood

relationship between the petitioner and Gajanan. Even the Committee has proceeded under the assumption that indeed there is such blood relationship. In our considered view the very purpose of conducting vigilance enquiry in such circumstance should be aimed at verifying existence of any blood relationship between a claimant and the validity holder/s being relied upon by him. If the original file of the petitioner contains affidavit of Gajanan, the enquiry officer ought to have ascertained if really there is any such relationship in existence atleast by approaching Gajanan and recording his statement. This having not been done, the matter has landed to the stage, we are entertaining it, wherein, though the Committee is not entertaining any doubt about the relationship between Gajanan and the petitioner, he has purportedly communicated to the Committee disputing the relationship.

7. There is one more aspect to be noted. Gajanan seems to have though it fit to address communication dated 28 September 2018 purportedly after the committee pursuant to the observations made in the order under challenge sought to undertake reverification of validity issued to him and issued him a notice dated 03 September 2018.

8. Be that as it may, since it is a matter of social status, it would be appropriate that the matter is remanded back to the Scrutiny Committee for undertaking a fresh enquiry precisely to examine if there is any blood relationship between the petitioner

and Gajanan, by extending an opportunity to her to substantiate it.

9. The writ petition is allowed partly. The impugned judgment and order dated 28.08.2018 passed by the respondent No. 2/Scrutiny Committee is quashed and set aside. The matter is remanded back to the respondent No. 2/Scrutiny Committee for decision afresh in the light of observations made herein above. The petitioner shall appear before the Committee on 09 September 2024 and the Committee shall thereafter decide the claim afresh, as expeditiously as possible, and in any case within a period of five (05) weeks from the date of appearance.

[SHAILESH P. BRAHME, J.] [MANGESH S. PATIL, J.]

bsb / Sept. 24