



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11458 OF 2019

Shilpa D/o Shivaji Yamalwad,
Age : 19 years, Occu. : Student,
R/o. At Post Ghungarala,
Tq. Naigaon Kh., Dist. Nanded

.. Petitioner

Versus

1] The State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai – 32.

2] The Commissioner & Competent Authority,
Government of Maharashtra,
State Common Entrance Test Cell,
8th Floor, New Excelsior Building,
A.K. Nayak Marg, Fort,
Mumbai – 400 001
(**Resp. no. 2 deleted** as per Court's
Order Dated 19-09-2019)

3] Deputy Director (Research)
and Member Secretary,
Scheduled Tribe Certificate
Verification Committee,
Near Saint Lawrence High School,
Town Centre, CIDCO, Aurangabad
Dist. Aurangabad

.. Respondents

...
Advocate for petitioner : Mr. Chandrakant R. Thorat
AGP for the respondent – State : Mr. V.M. Jaware
...

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

DATE : 13 AUGUST 2024

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

Heard both the sides finally, considering the exigency in
the matter.

2. The petitioner is challenging the judgment and order dated 06-08-2019 passed by the scrutiny committee, confiscating and invalidating her validity certificate. She relies on validity certificate of her father - Shivaji, which according to her, was issued after following the due procedure of law. Besides that, she is also relying upon the pre-constitutional document disclosing caste as 'Mannervarlu'.

3. Learned advocate for the petitioner submits that validity certificate of petitioner's father would enure to her benefit. The scrutiny committee committed perversity in overlooking the clinching record of Laxman Krushnaji. It is further contended that the finding regarding the revenue record of Munjaji Bhoju, is perverse.

4. Per contra, learned AGP tenders on record the original papers of the petitioner as well as her father. The learned AGP would point out that tampering was noticed in the school record of the close relatives of the petitioner. He would further submit that the validity certificates are rightly discarded by the scrutiny committee because there were suppression of material facts. He would further submit that Laxman whose revenue record is relied upon by the petitioner is not shown in the genealogy and is not a relative of the petitioner.

5. We have considered the rival submissions of the parties. We have gone through the original papers which are on record.

6. It appears from the record that Sunita is the first validity holder. Petitioner's father – Shivaji was also issued with validity certificate relying upon validity of Chandrakala. The scrutiny committee has not considered the validities issued to Sunita as well as Chandrakala. It also reveals that vigilance enquiry was conducted in petitioner's father's matter. He was issued with validity certificate by the scrutiny committee by a reasoned order. During vigilance enquiry, the pre-constitutional revenue record of Laxman Krishnaji was verified and it was found to be genuine. It is revenue record of 1353 *Fasli* (1942).

7. Surprisingly, the scrutiny committee did not consider the revenue document of Laxman Krishnaji though it was part of the vigilance enquiry of the petitioner's father and it is also reflected in the order of the scrutiny committee in case of petitioner's father. This old record would enure to the benefit of the petitioner considering the greater probative value.

8. We are of the considered view that the validity certificate issued to petitioner's father would corroborate her claim. It was issued after following due procedure of law as contemplated by the judgment of the Supreme Court in the matter of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others;*** 2023 SCC Online SC 326.

9. The scrutiny committee criticized the revenue entry of Munjaji Bhoju holding it as contrary to the tribe claim of the petitioner.

Learned counsel for the petitioner has drawn our attention to the same entry of Munjaji Bhoju which indicates caste as 'Mannervarlu'. The finding, therefore, recorded by the scrutiny committee is perverse. It further reveals from the record that the petitioner had submitted reply to the vigilance report disclosing *Fasli* document of Laxman Krushnaji. Despite that, no endeavour has been made by the committee to refer the document. Under these circumstances, we find that the impugned judgment and order is unsustainable.

10. Learned AGP would inform that the committee has issued show cause notices to the earlier validity holders. The petitioner is ready to run the risk in view of the law laid down in the matter of ***Shweta Balaji Isankar Vs. State of Maharashtra and others (writ petition no. 6320 of 2017)***. Petitioner deserves to be issued with validity certificate conditionally.

11. We, therefore, pass the following order :

ORDER

I] Writ petition is allowed partly.

II] Impugned judgment and order is quashed and set aside.

III] The scrutiny committee shall issue tribe validity certificate to the petitioner which shall be subject to the outcome of the re-verification proposed by the committee.

IV] Petitioner shall not be entitled to claim equities.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/