



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

WRIT PETITION NO. 9601 OF 2024

Ashutosh S/o Ashok Totawad .. Petitioner

VERSUS

The State of Maharashtra
Through its Secretary and another .. Respondents

Shri Chandrakant R. Thorat, Advocate for the Petitioner.
Shri P. S. Patil, Addl.G.P. for the Respondents.

**CORAM : MANGESH S. PATIL AND
SHAILESH P. BRAHME, JJ.
DATE : 04 SEPTEMBER, 2024.**

FINAL ORDER (Per Shailesh P. Brahme, J.) :-

. Heard both the sides finally considering urgency in the matter.

2. The judgment and order dated 30.08.2024 is questioned by the petitioner, whose tribe certificate of 'Mannervarlu' (Scheduled Tribe) has been invalidated and confiscated. He relies on certificates of validities issued to his father Ashok, real uncle Anil and second degree cousin uncle Mohan. The learned counsel for the petitioner submits that after following due procedure of law the certificates of validities were issued to the blood relatives and, therefore, petitioner is entitled to the same social status. He would submit that the impugned judgment and order is discriminatory and perverse. The petitioner is ready to run the

risk of facing consequences in view of the judgment in the matter of **Shweta Balaji Isankar Vs. The State of Maharashtra and others judgment dated 27 July 2018 in W. P. No. 5611 of 2018.**

3. The learned Additional Government Pleader repels the submissions of the petitioner. He tenders on record original papers of Mohan Bhumanna Totawad. It is submitted that the validities issued in the family of the petitioner are not reliable and rightly discarded by the Committee. The incompatible school record and tampering of couple of entries were suppressed while obtaining validities by earlier validity holders. The petitioner's father was issued with validity certificate banking on validity of Bodhanpod Abul Lachhamanna, who was not paternal side relative. It is vehemently pointed out that the contrary record of Mohan Poshetti and Jayshree was suppressed.

4. We have considered rival submissions of the parties and gone through the original papers. There is no dispute that the petitioner's father Ashok and real uncle Anil are the validity holders. The cousin uncle Mohan Bhumanna Totawad was issued with the validity certificate first in time. The original papers show that there was vigilance enquiry conducted in his matter and he could get through the affinity test. By a speaking order he was issued with the validity certificate. The Committee did not consider his vigilance report and speaking order passed by the earlier Committee.

5. Simultaneously , it is noticed that though validity of the petitioner's father is dealt with by the Committee, the validity issued to real uncle of the petitioner Anil is overlooked. The Committee is selective in considering the material on record. No justification is coming forth for not dealing with validities of Mohan and Anil. This conduct amounts to abdication of function of the committee and discriminatory.

6. It reveals from record that Anil was issued with the validity certificate by conducting vigilance enquiry and by a speaking order. His vigilance report discloses that he was reported to have withstood affinity test. We are of the considered view that after following due procedure of law Anil was issued with the validity certificate, so is the case with validities of Mohan and Ashok. Till their certificates are intact, the petitioner cannot be denied the validity certificate.

7. The Committee has issued show cause notices to the earlier validity holders. It would be upto the committee to consider incompatible or tampered record to find out as to whether there is fraud or not. The petitioner cannot be made to wait till conclusion of reverification. He is ready to run the risk of facing consequences in view of the judgment in the matter of **Shweta Balaji Isankar Vs. The State of Maharashtra and others** (supra). He is entitled to receive validity certificate conditionally. We, therefore, pass following order :

ORDER

- a) The writ petition is partly allowed. The impugned order is quashed and set aside.
- b) Though it is almost 5:45 pm, the petitioner having been allotted a college and is supposed to file the certificate of validity latest by tomorrow, we request the respondent – committee, to issue the certificate of validity during the course of the day as belonging to ‘Mannervarlu’ scheduled tribe in the prescribed format. The validity shall be co-terminus with the validity of the earlier holders.
- c) The petitioners shall not claim equities.

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

bsb / Sept. 24