



This Order is Corrected vide Speaking to Minutes Order dated 09-09-2024

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

WRIT PETITION NO. 9685 OF 2024

Ankita Pralhadrao Kanle
Age : 19 years, Occu – Education,
R/o : Shirshi (Kh), Tq. Parbhani,
Dist. Parbhani

... Petitioner

VERSUS

The State of Maharashtra
Through Secretary and another

... Respondents

...
Advocate for the Petitioner : Mr. S.M. Vibhute
A.G.P. for the Respondents/State : Mrs. S.S. Joshi

**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**
DATE : 04.09.2024

ORAL ORDER (MANGESH S. PATIL, J.) :

Though the matter is fresh and mentioned in the morning showing urgency inasmuch as the petitioner has been allotted a college at Miraj for undertaking medical course, and is supposed to ensure the admission by producing the certificate of validity, which request is rejected by the committee by the order under challenge, we had directed the papers to be produced and are taking up the matter with prior notice to the learned AGP in the morning itself that we would be taking this matter finally at the bottom of the board.

2. Issue notice. Learned AGP waives service for both respondents.

3. It is being pointed out that petitioner's real brother – Aniket Pralhad Kanle has been held entitled to have a clear certificate of validity, without any condition, by the order dated 21-08-2023 passed in writ petition no. 9616 of 2023. It is also being pointed out that since Aniket was relying upon validity of one Laxman Tukaram Kanle but the committee had sought to take exception to that validity and had issued show cause notice to Laxman Tukaram Kanle, who was the first validity holder in the family, but had subsequently, by order dated 01-02-2023, for the reasons recorded, the committee dropped the show cause notice, thereby confirming the validity of Laxman Tukaram Kanle. Recording such peculiar circumstances, Aniket was held entitled to have a clear certificate of validity.

4. If such is the state-of-affairs, even the petitioner being the real sister of Aniket, is entitled to have a certificate of validity.

5. Surprisingly, even when Aniket's matter was decided by us on 21-08-2023 on the ground that the show cause notice issued to Laxman was withdrawn by the committee, still, while passing the impugned order on 03-09-2024, the committee has not taken into consideration these aspects.

6. It is rather surprising or even saddening to note the conduct of the committee. It appears that it is hellbent to adopt a prejudicial approach. When Aniket has been held entitled to have a clear certificate of validity pursuant to the order of this Court and dropping of Laxman's show cause notice, the order has been passed rejecting petitioner's proposal, which is bordering contempt. The committee members do not seem to be aware

about the jurisprudence and have acted like a laymen. The principle of *stare decisis* is evolved to give finality to any litigation. In spite of the High Court finding real brother – Aniket entitled to have a clear certificate of validity in the peculiar circumstances referred to herein-above, the conduct of the committee in passing the impugned order, is clearly preposterous.

7. Let the Commissioner of Tribal Welfare Department, look into the matter and issue appropriate instructions to meet such contingency. This is a sheer waste of time and money apart from the fact that it puts everybody to inconvenience. Let the committee immediately issue certificate of validity during the course of the day.

8. Hence, the following order :

1) The writ petition is allowed. The impugned order is quashed and set aside.

2) Though it is almost 6:30 pm, the petitioner having been allotted a college at Miraj 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.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

arp/-