



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.11186 OF 2023

Sunil s/o Balkrushna Gaikwad,
Age: 27 years, Occu.: Student,
R/o. At Post, Loni (Sayyed Mir),
Tq. Ashti, Dist. Beed.

.. Petitioner

Versus

1. The State of Maharashtra,
Through Principal Secretary,
Tribal Development Department,
Mantralaya, Mumbai-32.
2. Scheduled Tribe Certificate Verification
Committee, Aurangabad,
Through its Deputy Director (Research)
and Member Secretary,
Near Saint Lawrence High School,
Town Centre, CIDCO, Aurangabad,
Dist. Aurangabad.

.. Respondents

...
Mr. C. R. Thorat, Advocate for the petitioner.
Mr. K. N. Lokhande, AGP for respondents – State.
...

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

DATE : 09 JULY 2024

ORDER [Per Shailesh P. Brahme, J.]:-

Heard both the sides for final disposal.

2. Petitioner is challenging judgment and order dated 31.08.2023 passed by the respondent No.2 – Scrutiny Committee confiscating and invalidating his tribe certificate for Scheduled Tribe Thakar. Petitioner relies on validity certificates of his real brothers Prashant, Pramod, Pravin and other parental side relatives. He has placed on record the judgment passed by the Scrutiny Committee in the matter of his brother Pravin. Petitioner also would rely upon pre-constitutional record of Manik Shivram Thakar and Narayan Shivarm Thakar of Fasli 1353, which is having greater probative value.

3. Per contra, learned AGP would vehemently oppose the claim of the petitioner. He has placed on record original papers of petitioner and his brother Pravin. Learned AGP would submit that the genealogy produced by the petitioner and the genealogy in the matter of his brother are inconsistent. It is further being submitted that a false affidavit has been filed by petitioner's father. There are contra entries and the Committee has rightly invalidated his tribe certificate. It is further submitted that the validity certificates upon which reliance is placed were procured misleading the Committee and they are not reliable.

4. We have considered rival submissions of the parties and with the assistance of the respondents, we have gone through original papers of

the petitioner and his brother Pravin. There is no dispute that the petitioner is the real brother of validity holders Prashant, Pramod and Pravin. Amol Pandurang, Gaikwad is also validity holder, who is second degree cousin of the petitioner. Although, affidavit of the petitioner's father Balkrushna recites that he was not educated but he was found to be in service in police department, nothing turns on the affidavit. We find that there is adequate material on record to support the claim of the petitioner independently.

5. We have considered vigilance report of Prashant, real brother of the petitioner. He was issued with validity certificate by the Scrutiny Committee. We have also gone through the judgment of the Scrutiny Committee granting validity certificate to Pravin, which was also on the basis of vigilance report. It also refers to documentary evidence of pre-independence period. We find that both the validity certificates are reliable. The claim of the petitioner is based on selfsame record, which has already been scrutinized by the Committee. In view of the judgment of the Hon'ble Supreme Court in the matter of **Mah. Adiwasi Thakur Jamat Swarakshan Samiti Vs. The State of Maharashtra and Ors.**, [AIR 2023 SC 1657], petitioner is entitled to receive benefit of validity certificate of his father.

6. We have considered genealogy given by Amol and Balkrushna

by perusing the original papers. We do not find any inconsistency.

7. It is noticed that Pravin was issued with the validity certificate without incorporating any condition. However, Scrutiny Committee intends to reopen validity certificates of the relatives of the petitioner. The petitioner is entitled to the validity certificate with certain conditions. We, therefore, pass the following order :-

ORDER

- i) Writ Petition is partly allowed.
- ii) Impugned judgment and order to the extent of petitioner - Sunil Balkrushna Gaikwad, is quashed and set aside.
- iii) The respondent No.2 – Scrutiny Committee shall issue tribe validity certificate of Thakar scheduled tribe to the petitioner forthwith. The same shall be subject to outcome of the reverification intended to be undertaken by the Scrutiny Committee.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

scm