



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

WRIT PETITION NO. 4996 OF 2024

Himanshu Devram Thakur .. Petitioner

Versus

The State of Maharashtra and another .. Respondents

Shri Sushant C. Yeramwar, Advocate for the Petitioner.
Shri S. R. Yadav Lonikar, A.G.P. for the Respondent Nos. 1 and 2.

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

DATE : 05 AUGUST 2024.

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

. Heard both the sides finally considering urgency expressed by the petitioner.

2. This petition is directed against the judgment and order dated 10.11.2022 passed by the respondent No. 2/Scrutiny Committee confiscating and invalidating the tribe certificate of the petitioner for 'Thakur' (Scheduled Tribe). He seeks to rely on certificate of validity issued to his father – Devram and cousin, Nitin. It is pointed out that petitioner's father Devram and cousin Nitin were issued with the validity certificates by the High Court.

3. Learned Assistant Government Pleader opposes submissions of the petitioner. He would submit that Committee

rightly rejected the tribe claim as the validity certificates pressed into service were unreliable due to suppression of material facts. The school record of the close relatives was found to be incompatible with the tribe claim of the petitioner. He would further point out that the Committee has proposed to challenge the decision of the petitioner's father and Nitin by preferring review/special leave petitions.

4. The learned A. G. P. has pointed out that no independent vigilance enquiry was conducted in the petitioner's matter. The vigilance report prepared in the matter of Pundalik Gulab Thakur was adopted by the petitioner. The genealogy given in Pundalik's matter does not tally with the genealogy given by the petitioner.

5. We have considered rival submissions of the parties. Petitioner's father was issued with the validity certificate by High Court in Writ Petition No. 2063 of 1996 vide order dated 10.06.2004. Petitioner's uncle was also issued with the validity certificate vide common judgment and order dated 31.07.2017 in Writ Petition No. 793 of 2012.

6. Though considerable period is lapsed, no steps have been taken to challenge judgment and order passed in the matter of petitioner's father and his cousin Nitin. As long as their validities are in force, the petitioner is entitled to receive validity certificate on the ground of parity. It would be discriminatory to deprive the petitioner from same social status when self same

record has undergone the scrutiny.

7. It reveals that petitioner filed reply dated 04.11.2022 to the vigilance report of Pundalik. It was specifically mentioned that Pundalik had tried to mislead the Committee by giving false genealogy. In order to take benefit of validities of petitioner's father and cousin, misrepresentation was made by Pundalik. We do not find that the Scrutiny Committee has dealt with this aspect of the matter, which it should have done. The submission of the learned A. G. P. cannot be accepted, which is raised for the first time in the High Court. It would be open for the Committee to examine that aspect of the matter if that would be fraud.

8. Petitioner is ready to run the risk as contemplated 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**. We are of the considered view that the impugned judgment and order is unsustainable and liable to be quashed and set aside. The petitioner is entitled to get validity certificate conditionally. We, therefore, pass following order :

O R D E R

A. The writ petition is allowed partly.

B. The impugned judgment and order dated 10.11.2022 passed by the respondent No. 2/Scrutiny Committee is quashed and set aside.

C. The respondent No. 2/Scrutiny Committee shall issue validity certificate of 'Thakur' (Scheduled Tribe) to the petitioner immediately, which shall be subject to the outcome of reverification of validity certificates to be undertaken by the Committee.

D. The petitioner shall not be entitled to claim equities.

E. The writ petition is disposed of.

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

bsb/Aug. 24