



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 14229 OF 2023

Pawan S/o Vitthal Jagtap
Age : 20 years, Occu. Education,
R/o. Dhamori (Bk.), Tq. Gangapur,
Dist. Aurangabad

.. Petitioner

Versus

- 1] The State of Maharashtra,
Through : Its Secretary,
Tribal Development Department,
Mantralaya, Mumbai
- 2] Scheduled Tribe Certificate
Scrutiny Committee, Aurangabad
Division, Aurangabad
through its Member Secretary
- 3] The Principal,
Shai Sai College of Pharmacy,
Khandala, Tq. Vaijapur,
Dist. Aurangabad

.. Respondents

...
Advocate for petitioner : Mr. P.B. Salunke
AGP for the respondent – State : Mrs. P.J. Bharad
...

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

DATE : 3 SEPTEMBER 2024

ORDER (MANGESH S. PATIL, J.) :

The petitioner is challenging the order of the respondent –
scrutiny committee in a proceeding under section 7 of the Maharashtra
Act No. XXIII of 2001, whereby it has refused to validate his 'Thakur'
scheduled tribe certificate.

2. We have heard both the sides finally at the stage of admission in the light of the exigency.

3. It transpires that already, the petitioner's proposal was rejected by the committee. He had challenged that decision in writ petition no. 12676 of 2022. By order dated 05-01-2023, the matter was remitted back to the scrutiny committee for taking a decision afresh by extending opportunity to the petitioner to prove his blood relationship with four individuals who were possessing certificates of validity. It transpires that the committee thereafter referred the matter for vigilance enquiry, precisely to ascertain if these four individuals are related to the petitioner by blood.

4. The vigilance officer submitted the report, expressly stating that indeed one Ravindra Vishwanath Jagtap and Rajendra Vishwanath Jagtap are related to the petitioner by blood from the paternal side but expressed inability to confirm if the other two individuals, namely, Amol Subhash Jagtap and Vijaya Subhash Jagtap were related to the petitioner by blood. The committee has thereafter, by the impugned judgment and order, even refused to extend the benefit of validity possessed by Ravindra and Rajendra only on the ground that Ravindra who had obtained the validity first in point of time on 26-02-2002, had obtained the validity concealing the contrary record of one Narayan

Laxman Jagtap, dated 08-09-1994, wherein he was described as 'Maratha' in the school record in the relevant caste column but the word 'Maratha' was encircled and word 'Thakur' was inserted. It has also been observed by the committee that Ravindra had obtained validity relying upon the validities possessed by couple of individuals who were not related to him by blood and that there was no evidence to establish that Ravindra had migrated from the area to which 'Thakur' scheduled tribe, originally belonged to.

5. It is apparent that the committee is not now entertaining doubt about Ravindra and Rajendra being related to the petitioner by blood.

6. Though Ravindra had relied upon the validities of the individuals, who were not related to him by blood, it is apparent that even he did not claim that they were related to him by blood from the paternal side. In fact, it was expressly mentioned disclosing that these individuals were related to Ravindra from the maternal side. That was not the only reason resorted to by the then committee for holding him entitled to have the certificate of validity.

7. In the light of the fact that area restriction was removed by the amendment Act of 1976, and in the light of the decision in the matter of ***Palaghat Jila Thandan Samuday Sanrakshan Samiti and***

Anr. Vs. State of Kerala and Anr.; (1994) 1 SCC 359, the committee could not have legally resorted to and applied area restriction that too for taking exception to the validity granted to Ravindra by the then committee.

8. Though the committee has now decided to reopen the validities on the ground of alleged fraud, we cannot embark upon that enquiry and the committee can take recourse to law, follow the due process and enquire into it. However, till the time the certificate of validity issued to Ravindra and Rajendra are not recalled and cancelled, the petitioner cannot be made to wait at the cost of his career, more so, when according to his learned advocate, he is ready to run the risk of facing the consequences contemplated in **Shweta Balaji Isankar Vs. State of Maharashtra and others (writ petition no. 6320 of 2017)**.

9. In this view of the matter, the impugned order is liable to be quashed and set aside.

10. The writ petition is allowed partly.

11. The impugned order is quashed and set aside.

12. The respondent - committee shall immediately issue tribe validity certificate to the petitioner as belonging to 'Thakur' scheduled

tribe in the prescribed format. The validity shall be co-terminus with the decision in the matter which the committee has decided to re-open.

13. The petitioner shall not claim equities.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

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