

(2023) 08 BOM CK 0056

In the Bombay High Court

Case No : Writ Petition (Stamp) No.22150 Of 2023

Digvijay Dnyaneshwar Gaikwad

APPELLANT

Vs

State Of Maharashtra & Ors

RESPONDENT

Date of Decision : 21-08-2023

Acts Referred:

Citation : (2023) 08 BOM CK 0056

Hon'ble Judges : Sunil B. Shukre, J;Firdosh P. Pooniwalla, J

Bench : Division Bench

Advocate : Anandsingh Bayas, Kavita Salunke

Final Decision : Allowed

Judgement

Sunil B. Shukre, J

1. Heard. Rule. Rule made returnable forthwith by consent of the learned counsel for the parties.

2. We find that there are as many as 10 validities, which are existing in the family and all the validities have been granted to the blood relatives of the petitioner from the paternal side. There is a validity certificate granted to one Snehal Dilip Gaikwad, who is cousin of the petitioner from the paternal side, which appears to have been granted by the Scrutiny Committee on the basis of the judgment delivered by this Court on 06.08.2019 in Writ Petition No.8152 of 2019. This fact has been noted by the First Court in its oral order dated 30.03.2023 delivered in Writ Petition No.13566 of 2022, which was filed by one Prasad Suhas Gaikwad, another cousin of the petitioner from the paternal side. While allowing that petition, the First Court noted that in the judgment delivered by this Court on 06.08.2019 in Writ Petition No.8152 of 2019 filed by Snehal Dilip Gaikwad, this Court considered at length the documentary evidence available on record and then set aside the judgment of the Scrutiny Committee and directed the Scrutiny Committee to issue validity certificate to him. These observations made by the First Court only indicate that a view was taken by the First Court

that there was nothing wrong in the documentary evidence produced on record by Snehal Gaikwad and that it was of convincing nature. That being so, it was necessary that the validity certificate granted to Snehal was not discarded by the Scrutiny Committee but it did so.

3. Now, if we take a look at the impugned order, we would find that the Scrutiny Committee has refused to grant validity certificate to the petitioner on the ground that the Scrutiny Committee was in the process of filing Special Leave Petition in the Apex Court in order to challenge the judgment delivered by this Court about four years ago in the case of Snehal. When we asked learned AGP about the steps taken by the State to challenge the judgment of this Court dated 06.08.2019 delivered in Writ Petition No.8152 of 2019, learned AGP, upon instructions, states that the matter is still pending in the Law & Judiciary Department of the State Government. That means no decision whatsoever for questioning the validity certificate granted about four years ago to one of the cousins of the petitioner has been taken so far. If this is the manner of functioning of the State Government, we are of the opinion that important rights of candidates aspiring for higher education would surely suffer and there would be no certainty about and finality to State acts. In this case, academic career of the petitioner is at stake and the vacillation on the part of the Government is creating uncertainty in the matter. The petitioner has been admitted on a reserved seat of Engineering course and presently he is in the first year of that course. His educational prospects now have been endangered because of his inability to produce before the Competent Authority the Tribe validity certificate. Besides, there are as many as 10 validity certificates existing in the family of the petitioner about which we have already mentioned.

4. Such being the factual position of the present case, we are of the opinion that on the basis of validity certificates granted to blood relatives of the petitioner from the paternal side particularly the validity certificate granted to Snehal Gaikwad, the petitioner would have to be said as having reasonably established his claim as belonging to "Thakar" Scheduled Tribe, and therefore, it is necessary that Respondent No.2-Scrutiny Committee, Pune issues Tribe validity certificate to the petitioner without any further delay.

5. In the result, the petition is allowed. The impugned order dated 09.08.2023 is hereby quashed and set aside. Respondent No.2-Scrutiny Committee is directed to issue Tribe validity certificate to the petitioner that he belongs to "Thakar" Scheduled Tribe at the earliest and in any case within two weeks from the date of receipt of writ of this Court.

6. Meanwhile, we direct Respondent No.3 to continue the admission of the petitioner to the first year Engineering Course on the strength of this order till the petitioner produces his validity certificate before the Competent Authority.

7. Rule is made absolute in the above terms. No costs.

8. Petition is disposed.