



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.11509 OF 2023

Shivam s/o. Sudhakar Kamthewad
through power of attorney holder
Sudhakar s/o Dattatray Kamthewad ... PETITIONER

VERSUS

1. The State of Maharashtra,
through its Secretary,
Medical Education and Drugs Department
Mantralaya, Mumbai
2. The Scheduled Tribe Caste Certificate
Verification Committee, Kinwat
Head Quarter at Aurangabad
through its Dy. Director (R),
Dist. Aurangabad ... RESPONDENTS

...
Advocate for petitioner : Mr. Sunil M. Vibhute
A.G.P for Respondent : Mr. P.S. Patil
...

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

DATE : 30.07.2024

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

The petitioner is challenging the order of invalidation of his 'Mannervarlu' scheduled tribe certificate, by the order under challenge passed by respondent No.2 – Committee. Considering the urgency being demonstrated, the matter is taken up for final hearing with the consent of both the sides.

2. The learned advocate for the petitioner submits that as

mentioned in the impugned judgment and order there are numerous validities, some of which have been referred to by the Committee *suo moto*. Though the petitioner's father's matter is pending with the High Court, considering the number of validities and many of which have been granted by the orders of this Court, the Committee could not have refused to extend the benefit, of these many validities, to the petitioner.

3. Learned advocate would submit that even if the Committee has now formed an opinion that the validity holders had resorted to fraud while obtaining the certificates of validity, it is a matter of adjudication. Till the time those validities are not recalled and cancelled, the petitioner being the blood relative deserves to be extended the benefit, may be conditionally. The petitioner is ready to run the risk of facing the consequences contemplated in **Shweta Balaji Isankar Vs. State of Maharashtra and Ors.**;WP No.6320/2017.

4. The learned AGP would strongly oppose the petition. He would submit that though there are number of validities there is a doubt about relationship of the petitioner with many of them. The learned AGP would try to convince us on this aspect by referring to the genealogies furnished by the petitioner and the one furnished in the matter of *Vaijnath* which are not compatible. He would further submit that the Committee could lay hands on and has expressly referred to several entries in the school and birth record which are either not compatible with the petitioner's claim or have been clearly manipulated by resorting

to forgery. The petitioner cannot be allowed to derive the benefit of such rampant fraud perpetrated by the blood relatives and the petitioner may not be extended the benefit even of having a conditional validity.

5. We have considered the rival submissions and perused the papers. Though the learned AGP has made strenuous efforts to point out the incompatibility of the genealogies furnished by the petitioner and the one furnished by some of the earlier validity holders, it would suffice to mention that the Committee in the entire impugned judgment has not even whispered about having entertained any doubt regarding the blood relationship between the petitioner and the validity holders. In fact, while discussing Issue No.2, in paragraph No.7, the Committee on its own has referred to validities of the several individuals from its record, expressly stating that these are the relatives of the petitioner. The petitioner was merely relying upon the validities of cousin sisters Pratidnya Pandharinath Kamthewad and Dhanashri Arvindrao Kamthewad. Still, the Committee has stated to have discovered as many as validities possessed by fourteen individuals named therein. We are precisely pointing out this circumstance to demonstrate that the submission of the learned AGP, without any reasoning on these lines resorted to by the Committee entertaining doubt about the relationship of the petitioner with the validity holders, cannot be considered.

6. We need not indulge in entertaining and deciding the petitioner's claim by scanning the material relied upon by him and even

the one mentioned in the impugned order. We are saved from such ordeal for the simple reason that admittedly, there are several validities in the family of near and distant blood relatives, relationship of the petitioner with whom has not been doubted by the Committee.

7. True it is that the benefit of the validities in the family can be extended to a blood relative only if the earlier validities were issued in accordance with law and for the reasons recorded, as has been laid down in the **Maharashtra Adiwasli Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and Ors.**;2023 SCC Online SC 326. However, in our considered view, with respect, even we are saved from such ordeal of undertaking the scrutiny for the reason that admittedly, there are several validities in the family some of which have been granted pursuant to the orders of the coordinate division benches.

8. The Committee in the impugned judgment has alleged fraud against several validity holders, however, fraud being a serious allegation would require a threadbare inquiry by extending opportunity of being heard to the alleged perpetrators. Since it would require due process of law to be followed, we do not think it appropriate that any exercise should be undertaken in the present matter to ascertain if these circumstances being referred to by the Committee would really constitute supersession of material facts. The Committee will have to substantiate such inference in a proper inquiry. Any observation made by us could have a bearing on those inquiries the Committee intends to reopen. We

do not intend to do that.

9. In this regard, it is important to note that the petitioner's distant cousin from the paternal side Pratidnya Pandharinath Kamthewad was held to be entitled to have a certificate of validity by a division bench at the Principal Seat in Writ Petition No.10305/2017, by the order dated 06.10.2017. It was a blanket validity. Subsequently, in the matter of Pratidnya's real sister Haripriya whose claim was also invalidated, she had filed Writ Petition (ST) No.22285/2020. By the order dated 07.12.2020, on a similar stand being taken by the Committee and the submissions of the learned AGP regarding alleged fraud, a coordinate division bench of this Court had expressly observed that Haripriya was entitled to have a certificate of validity by precisely pointing out that however, its validity would be subject to the final outcome of the review which the Committee had decided to resort to of the order passed in the matter of Pratidnya. As is mentioned herein above, Pratidnya's matter was decided in the year 2017, Haripriya's matter was decided in the year 2020 and till date, there is nothing on the record to demonstrate that any attempt has been made to seek review of the judgment and order passed in the matter of Pratidnya.

10. For years together the Committee has been keeping a hanging sword, without making any serious attempt to take the matter and particularly the allegations regarding fraud to the logical end. The petitioner cannot be denied benefit of having a validity, again, subject to

the final outcome of the review to be preferred in the matter of Pratidnya Pandharinath Kamthewad.

11. The writ petition is allowed partly. The impugned judgment and order is quashed and set aside. The respondent - Scrutiny Committee shall immediately issue certificate of validity to the petitioner of 'Mannervarlu' Scheduled Tribe. Its validity would be subject to the final outcome of the review of the judgment and order in the matter of Pratidnya Pandharinath Kamthewad.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

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