

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

WRIT PETITION NO. 9495 OF 2018

1. Umesh s/o Balaji Chanchalwad,
Age: 21 years, Occ: Student,
R/o Rui (Bk), Tq. Naigaon,
Dist. Nanded.

2. Yogesh s/o Balaji Chanchalwad,
Age: 23 years, Occ.: Student,
Age: 21 years, Occ: Student,
R/o Rui (Bk), Tq. Naigaon,
Dist. Nanded.

... **Petitioners**

Versus

1. The State of Maharashtra
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai – 400 032.

2. The Scheduled Tribe Certificate Scrutiny
Committee, Aurangabad,
Through its Deputy Director. (R),

3. The Registrar,
Maharashtra Animal and Fishery
Sciences University, Futala Lake Road,
Nagpur, Tq. & Dist. Nagpur.

4. The Dean / Principal,
College of Veterinary and Animal Sciences,
Parbhani, Tq. & Dist. Parbhani.

5. The Principal,
S.M.B.T. Dental College & Hospital,
and Post Graduate Research Centre,
Ghulewadi, Tq. Sangamner,
Dist. Ahmednagar.

... **Respondents**

Mr. Pratap V. Jadhavar, Advocate for the Petitioners.

Mr. P.S. Patil, AGP for Respondent Nos.1 & 2.

WITH
WRIT PETITION NO. 9782 OF 2018

Ku. Aman Manohar Baviskar,

Age: 18 years, Occ: Student,

R/o Plot No.34, Gut No. 101,

Near Hira Shiva Colony, Shivshakti Nagar,

Pimprala, Jalgaon.

... **Petitioner**

Versus

1. The State of Maharashtra

2. The Scheduled Tribes Scrutiny Committee,
Aadivasi Vikas Bhavan, Nandurbar Region,
Nandurbar, Maharashtra.

3. The Principal,
D.Y. Patil College, of Engineering,
Aakurdi, Pune.

... **Respondents**

Mrs. Vaishali B. Suryawanshi, Advocate for the Petitioners.

Mr. P.S. Patil, AGP for Respondent Nos.1 & 2.

**CORAM : R.M. BORDE &
MANGESH S. PATIL, JJ.**
DATE : 24.08.2018

ORAL JUDGMENT:

Heard.

2. Rule.

3. With the consent of the parties both the petitions are taken up for final disposal at admission stage.

4. In both the matters challenge is raised to the invalidation of the tribe validation certificates issued to the respective petitioners. The petitioners have placed on record before the scrutiny committee documentary evidence in the form of validation certificates issued to their blood relations. In both these petitions the respective father of the petitioner's have been issued validation certificate apart from other blood relations. Considering the judgment in the matter of **Apoorva Vinay Nichale V/s. Divisional Caste Certificate Scrutiny Committee No.1 and others, reported in 2010 (6) Mh.L.J. 401** and the judgment of the Supreme Court in the matter of **Raju Ramsing Vasale V/s. Mahesh Deorao Bhivapurkar and others, reported in (2008) 9 SCC 54**, so also in the matter of **Anand V/s. Committee for Scrutiny and Verification of Tribe Claims and others reported in (2012) 1 Supreme Court Cases, 113**, the decision of the scrutiny committee appears to be prima facie inconsistent. The Division Bench in the matter of **Apoorva Vinay Nichale (supra)** has observed in para 7 and 9 of the judgment as below:

"7. We thus come to the conclusion that when during the course of enquiry the candidate submits a caste validity certificate granted earlier certifying that a blood relation of the candidate belongs to the same caste as that claimed by the applicant, the committee may grant such certificate without

calling for Vigilance Cell Report. However, if the committee finds that the earlier caste certificate is tainted by fraud or is granted without jurisdiction, the Committee may refuse to follow and may refuse to grant certificate to the applicant before it.

9. *In the present case, we find that the committee has disbelieved the petitioner's case that she belongs to Kanjar Bhat after calling the School leaving certificate of Petitioner's father and noticing that the original caste written on it was "Thakur" and that was subsequently changed to Kanjar Bhat. The committee observed that the caste has been changed without complying with the procedure prescribed by Section 48(e) and 132(3) of Mumbai Primary Education Act. In fact, the caste has been changed on the basis of the affidavit. From the findings of the committee it appears that the committee has observed that the change of caste has been one illegally. Obviously, the committee which decided the caste claim of the petitioner's sister did not hold the same view, otherwise it would have refused to grant validity. In the circumstances, we are of the view that the committee which has expressed a doubt about the validity of caste claim of the petitioner and has described it as a mistake in its order, ought not to have arrived at a different conclusion. The matters pertaining to validity of caste have a great impact on the candidate as well as on the further generations in many matters varying from marriage to education and enjoyment, and therefore where a committee has given a finding about the validity of the caste of a candidate another committee ought not to refuse the same status to a blood relative who applies. A merely different view on the same facts would not entitle the committee dealing with the subsequent cast claim to reject it. There is, however, no doubt as observed by us earlier that if a committee is of the view that the earlier certificate is obtained by fraud it would not be bound to follow the earlier caste validity certificate and is entitled to refuse the caste claim and also in addition initiate proceedings for cancellation of the earlier order. In this view of the matter, we are of the view that the petition must succeed. Rule is made absolute in above terms. The Caste Scrutiny Committee is directed to furnish the caste validity certificate to the Petitioner."*

5. It is the contention of the respondent that since some interpolation was noticed in the record produced before the scrutiny

committee in respect of the blood relatives of the petitioners, the decision to issue validation certificates in favour of such of those blood relations needs to be reconsidered. It is further informed that the scrutiny committee has already issued notices to the blood relations directing them to show cause as to why the validation certificates issued to them shall not be cancelled on account of fabrication of the documents and on account of fraud having been played while securing such validation certificates.

6. It however needs to be noticed that the proceedings initiated in pursuance to the notices issued to the blood relations have not yet attained finality. In this view of the matter, subject to the outcome of the show cause notices which are stated to have been issued to the blood relations of the petitioners, the petitioners be issued tribe validation certificates. In the event of cancellation of the certificates issued to the blood relations of the petitioners which is the basis for lodging the claim, the certificates that would be issued to the petitioners shall also be deemed to have been cancelled. The petitioners before us undertake that in the event of cancellation of the validation certificates issued to their blood relations they would not be entitled to claim benefits on the basis of the tribe validation certificates which would be issued to them conditionally, and they would not claim any benefit on equitable considerations.

7. Considering the aforesaid aspects and in view of the judgment of Division Bench at Mumbai in Writ Petition No. 7488 of 2018, we direct the scrutiny committee to issue tribe validation certificates to the respective petitioners. The certificates that would be issued to the petitioners would be conditional and would be subject to the outcome of the proceedings initiated against their blood relations in respect of the cancellation of the tribe validation certificates already issued to them. The committee shall conclude the proceedings regarding blood relations of petitioners in observance of the principles of natural justice as expeditiously as possible and preferably within six months from today.

8. In view of above, the writ petitions are allowed in aforesaid terms. Rule made absolute to the extent as specified above. There shall be no order as to the costs.

[MANGESH S. PATIL, J.]

[R.M. BORDE, J.]