IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

1056 WRIT PETITION NO.8000 OF 2019
WITH
CA/12227/2019 IN WP/8000/2019
WITH
CA/1786/2020 IN WP/8000/2019

SUPRIYA TANAJI KAYPALWAD
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS
...
Advocate for Petitioner : Mr. V. D. Sapkal, Senior Advocate i/b. Mr. Thorat Chandrakant R.
AGP for Respondents No. 1, 2 & 4 : Mr. P. S. Patil
Respondent No. 3 - Served.
…

WRIT PETITION NO. 11408 OF 2018
SARIKA MADHAVRAO KAYPALWAD
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS
...
Advocate for Petitioner : Mr. S. M. Vibhute
AGP for Respondents No. 1 to 4 : Mr. P. S. Patil
…

WRIT PETITION NO. 7979 OF 2019
PRERNA PRAKASH KAYPALWAD
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS
...
Advocate for Petitioner :
Mr. Thorat Chandrakant R.
AGP for Respondents No. 1, 2 & 4 : Mr. P. S. Patil
Advocate for Respondent No. 3 : Mr. J. R. Patil
…

WRIT PETITION NO. 7999 OF 2019
ATHARV PRAKASH KAYPALWAD
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner :
Mr. Thorat Chandrakant R.
AGP for Respondents No. 1 to 4 : Mr. P. S. Patil
…

WRIT PETITION NO. 8016 OF 2019
LIMBAJI POSHETTI KAYPALWAD
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS
...
Advocate for Petitioner :
Mr. Thorat Chandrakant R.
AGP for Respondents No. 1 & 3 : Mr. P. S. Patil
…

WRIT PETITION NO. 8130 OF 2019
PRATIK PRAKASH KAYPALWAD
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER
...
Advocate for Petitioner :
Mr. Thorat Chandrakant R.
AGP for Respondents No. 1 & 2 : Mr. P. S. Patil
…

CORAM: S. V. GANGAPURWALA &
SHRIKANT D. KULKARNI, JJ.

DATE: 06th MARCH, 2020

PER COURT:

1. The petitioner in Writ Petition No. 8000 of 2019 is issued with the validity certificate on or about 02.06.2010. The show cause notice was issued by the committee on 27.03.2019 as to why the validity certificate issued to the petitioner of Mannervarlu, Scheduled Tribe should not be

cancelled / revoked. The petitioners in Writ Petition No. 8016 of 2019 and Writ Petition No. 8130 of 2019 were also issued with the validity certificates, subsequently, show cause notices were issued to them as to why the validities granted to them should not be cancelled.

2. The validation proceedings of the petitioner in Writ Petition No. 11408 of 2018 was negatived. The claim of the said petitioner was invalidated. In Writ Petition No. 7979 of 2019 and Writ Petition No. 7999 of 2019, the conditional validity was granted to them on the basis of validity granted to the petitioner in Writ Petition No. 8000 of 2019.

3. Replies were given to the show cause notices by the petitioners in Writ Petition No. 8000 of 2019, Writ Petition No. 8016 of 2019 and Writ Petition No. 8130 of 2019. The replies were not accepted and the validities granted to them were withdrawn / revoked. Pursuant thereto, the conditional validity granted to the petitioners in

Writ Petition No. 7979 of 2019 and Writ Petition No. 7999 of 2019 also stood withdrawn. All these petitioners have assailed the said orders before this Court.

4. We have heard Mr. Sapkal, learned Senior Advocate for the petitioners and Mr. Patil, learned Additional Government Pleader for the respondent/committee.

5. The show cause notices were issued as to why the validities granted should not be withdrawn of the petitioners as the claims of Atharv, Prerna, Sarika and others claiming Mannervarlu, Scheduled Tribe were invalidated. The show cause notices are based only on these facts. The petitioners filed replies to the show cause notices in detail.

6. Mr. Sapkal, learned Senior Advocate for the petitioner contends that the show cause notices are vague. Only on the ground that the caste claim of the some of the persons is subsequently invalidated, the show cause notices are issued. Apart from that, no other facts are detailed in

the show cause notices. The committee could not have travelled beyond the show cause notices for deciding the matters. The committee ought to have restricted itself to the grounds mentioned in the show cause notices. The committee is a quasi judicial body. It performs qusi judicial functions. It cannot show undue interest in the matter. The committee has filed affidavit in reply, even brought on record additional documents which were not part of the proceedings. While granting validity certificate to Supriya Tanaji the vigilance was conducted. The vigilance team verified the documents from the original record. It was observed that no tampering existed in the original record. The same was verified 10 years back. The respondents, now, on the ground that the school record of some of the relatives is not showing entry of caste has arrived at a negative conclusion. The genealogy relied by the respondent is in respect of Sambhaji Ganpati who is not related to the petitioner. In case of present petitioners Sambhaji's father is Poshetti. The

respondents are relying on a wrong genealogy. Even place of residence of Sambhaji Ganpati and Sambhaji Poshetti is different. All these aspects are not considered. The scope of review is very limited. As a matter of course, the respondent committee could not have reviewed or recalled the validities granted to the petitioners.

7. According to Mr. Patil, learned Additional Government Pleader, the validity certificate is obtained by Supriya Tanaji on account of fraud and suppression of material facts. The contrary record was suppressed. Deliberately false genealogy was shown by the petitioner. The original record was traced by the vigilance cell. The colour copies of the original record are acquired. The same would show that in the school record of the students, caste column bears entries of the respective castes except petitioners and the relatives. In the caste column the caste is either scored of or is tampered with. The genealogy has been considered from the record. The statements are

also considered and thereafter committee has arrived at the correct conclusion.

8. We have considered the submissions canvassed by the learned counsel for respective parties.

9. Fraud vitiates every solemn act. Any order, judicial or quasi judicial obtained by fraud cannot withstand and is subject to scrutiny at any time. Fraud is anthesis to the rule of law, fairplay, justice and good conscience.

10. It is fact that the petitioners Supriya, Limbaji and Pratik were issued with the validity certificates. If the committee was of the opinion that the validity certificates are obtained by fraud on the basis of material before it, then the committee is required to issue show cause notice containing all the details *viz.* the facts on the basis of which according to the committee the validity issued earlier was by fraud, misrepresentation or suppression.

11. Upon perusal of the show cause notices, it appears that the show cause notices were issued merely on the ground that subsequently caste claims of some of the relatives were invalidated. It is the eight line show cause notice without any further details. The show cause notices also did not depict the grounds on which the proceedings are to be reopened. Naturally, the petitioners would be handicapped to reply the same.

12. It also appears that in the present writ petitions some additional documents are filed on record by the committee to which the petitioners did not have access during the pendency of the proceedings after issuance of show cause notices. The petitioners did not have opportunity to explain about the said documents and relationship also.

13. Once the validity is granted the same can be revoked / reopened only on limited grounds of fraud, misrepresentation, suppression. The committee will be required to scan the documents

more meticulously after giving opportunity to the persons whose validity is sought to be reopened. The same certainly cannot be as a matter of course.

14. In the present case, it does not appear that the original record which the committee was subsequently relying and the documents filed herewith were brought to the notice of the petitioners nor the show cause notices also gives details of the same.

15. In light of the above, we deem it appropriate to pass the following order.

16. The impugned orders revoking / withdrawing the validities in favour of the petitioners in Writ Petition No. 8000 of 2019 , Writ Petition No. 8016 of 2019 and Writ Petition No. 8130 of 2019 are set aside. Subsequently, the orders withdrawing conditional validities of the petitioners in Writ Petition No. 7979 of 2019 and Writ Petition No. 7999 of 2019 are also set aside. The caste claim of the petitioner in Writ Petition

No. 11408 of 2018 was negatived. The same also shall stand set aside.

17. The committee may issue fresh show cause notices to the petitioners giving the details. The committee shall also provide the copies of the documents on which the committee relied upon to the petitioners. The petitioners will have every opportunity to file detail say to the same and thereafter decide the proceedings as per the procedure prescribed under the Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000.

18. The petitioners in Writ Petition No. 11408 of 2018 will also be entitled to file the additional say to the documents which may be relied by the committee.

19. The conditional validities granted to the petitioners in Writ Petition No. 7979 of 2019 and

Writ Petition No. 7999 of 2019 shall be subject to the fresh decision that would be taken by the committee as observed above.

20. With these observations, writ petitions stand disposed of.

21. In view of disposal of the writ petition, the civil applications also stand disposed of.

[SHRIKANT D. KULKARNI, J.] **[S. V. GANGAPURWALA, J.]**

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