

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9458 OF 2019

Shriniwas S/o. Venkatrao Kaurwad
Age 19 years, Occ. Education,
R/o. Sai Vihar, House No.9,
Khadgaon Road, Latur,
Tq. and Dist. Latur.

.. PETITIONER.

VERSUS

- 1] The State of Maharashtra
through its Secretary,
Higher and Technical Education Department,
Mantralaya, Mumbai.
- 2] The Scheduled Tribe Caste Certificate
Verification Committee Aurangabad
through its Member Secretary,
Aurangabad.
- 3] The Commissioner and Competent Authority,
Commissionerate Common Entrance Test Cell,
Government of Maharashtra,
8th Floor, New Excelsior Building,
A.K. Naik Marg, Fort, Mumbai.

.. RESPONDENTS.

Mr. S.M. Vibhute, Advocate for petitioner,
Mr. P.N. Kutti, AGP for respondents No. 1 and 2.
Mr. M.D. Narwadkar, Advocate for respondent No.3.

WITH**WRIT PETITION NO. 9529 OF 2019**

Vikram S/o. Gangadhar Kaurwad,
Age 24 years, Occ. Education,
R/o. Plot No.145, Shrikrushna Nagar,
Dargah Road, Aurangabad,
Tq. & Dist. Aurangabad.

.. PETITIONER

VERSUS

- 1] The State of Maharashtra
through its Secretary,
Higher and Technical Education Department,
Mantralaya, Mumbai.
- 2] The Scheduled Tribe Caste Certificate
Verification Committee Aurangabad
through its Member Secretary,
Aurangabad.
- 3] The Vishwakarma Institute of Technology,
666, Upper Indira Nagar, Bibwewadi,
Pune, Dist. Pune.

... RESPONDENTS.

Mr. S.M. Vibhute, Advocate for petitioner,
Mr. S.N. Kendre, AGP for respondents No. 1 and 2.
Mr. S.G. Karlekar, Advocate for respondent No.3.

**CORAM : SUNIL P. DESHMUKH &
R.G. AVACHAT,JJ.**

DATE : 11th DECEMBER, 2020.

ORAL JUDGMENT [PER SUNIL P. DESHMUKH, J]:-

1] Rule. Rule made returnable forthwith. Heard learned counsel for appearing parties finally by consent.

2] These two petitions have been preferred questioning the legality and validity of decision by respondent No.2 - (hereinafter referred to as "*Scrutiny Committee*") dated July 25th, 2019 invalidating the claims of respective petitioners to "*Mannervarlu*" scheduled tribe.

3] Learned counsel Mr. Vibhute appearing for the petitioners, at the outset, points out a decision of the Division Bench of this court dated 23-07-2018 in W.P. No. 7464 of 2018 (*Mamta Gangadhar Kaurwad vs. The State of Maharashtra and others*), in the case of real sister of present petitioners. In said decision of division bench, reference to validity certificate granted to their real paternal uncle - Vyankat and paternal cousin - Yogeshwar had been made.

4] The learned counsel for petitioners submits that the present petitioners have made similar claim as that was by Mamta on the basis of very same material and on same evidence. He submits that validity certificates of Vyankat and Yogeshwar had been weighed in *Mamta's case (supra)*. In aforesaid order dated

25-07-2018 of this court, it had directed to issue validity certificate to Mamta, subject to outcome of the proceeding of cancellation of certificate issued in favour of the blood relations.

5] He submits that record would reveal, the Committee under purported exigent situation, had considered and taken into account the vigilance enquiry in the case of Mamta (supra). The learned counsel for petitioners, therefore, submits that reasons which had impelled the Division Bench in the case of Mamta to issue directions for validity to her claim apply on all fours in the present matter as well, while validity holders' certificates are still intact although re-consideration has been stated to have been undertaken.

6] The Division Bench in its order dated 25th July, 2018 had taken into account that decision of the committee had been given, overlooking validity of certificates in respect of blood relations, namely, Vyankat and Yogeshwar. This court had observed that taking into account the decisions of *Apoorva Vinay Nichale vs. Divisional Caste Certificate Scrutiny Committee* reported in 2010 (6) *Mh.L.J.* 401, *Raju Ramsing Vasave Vs. Mahesh Deorao Bhivapurkar and others*, reported in (2008) 9 SCC 54 and "*Anand vs. Committee for Scrutiny and Verification of Tribe Claims and others*, reported in (2012) 1 SCC 113, the petitioner would be legitimately entitled to validity certificates immediately. However, same would be subject to the

outcome of show cause notice which had been stated to have been issued to the real uncle of petitioner, viz. Vyankat. The Division Bench, in the circumstances had observed in paragraphs No. 6 and 8 of its order, thus :-

“6. The learned Government Pleader submits that since some interpolation is noticed in the school record of **petitioner’s real uncle Vyankat**, the Committee has issued a show cause notice to him. We find that the committee has not recorded specific findings as regard possibility of some interpolation. Be that as it may, we have noticed that the **petitioner’s paternal real uncle Vyankat and paternal cousin brother Yogeshwar** have already been granted caste validity certificate. Thus in our considered view, the reason assigned by the Committee for rejection of the petitioner’s claim cannot be sustained as it runs contrary to the view taken by the Division Bench of this Court in the case of **Apporva Vinay Nichale (supra).**”

“8. In view of above, the Committee is directed to issue Tribe validity certificate to the petitioner forthwith. As the Committee has already initiated proceeding for cancellation of validity issue to the blood relations of the petitioner, in response to the Court’s query, it is assured by the Committee that the Committee will conclude those proceeding within a period of three months from the date of receipt of copy of this order. If the proceeding for cancellation of caste validity holders are answered against such certificate holders, it shall be open for the Respondent Committee to issue show cause notice to the petitioner as to why validity certificate granted to the petitioner should not be cancelled and it will be open for the Committee to take those proceeding to its logical end. Needless to say that the certificate issued to the petitioner is subject to the outcome of the proceeding for cancellation of validity issue in favour of her blood relations.”

7] While in the present case, there is no dispute that, Mamta happens to be the real sister of petitioner in W.P. No.9529 of 2019 and cousin of the petitioner in W.P. No. 9458 of 2019, from parental blood relations, we deem it appropriate to follow chartered

course, as observed in para. 8 (supra).

8] Thus, the impugned order dated 25-07-2019 passed by Scheduled Tribe Caste Certificate Verification Committee, Aurangabad is set aside and respondent No.2 – committee is directed to issue tribe certificate to the petitioners forthwith, which shall be subject to outcome of the proceeding said to have been issued against blood relations viz. Vyankat, as it appears, which has not been concluded within the period as observed by this court in the order dated 25-07-2019. In case of cancellation of the validity certificates of the holders in parental blood relations, it would be open for the Committee to issue show cause notice to the petitioners as to why their certificates should not be cancelled and to take such proceedings to their logical end.

9] Rule made absolute in above terms. Writ petitions are allowed to the said extent and are disposed of.

[R.G. AVACHAT, J]

[SUNIL P. DESHMUKH, J]

grt/-