

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.12344 OF 2019

Sambhaji s/o Malbarao More,
Age : 52 years, Occu. Service,
R/o Murtizapur Savangi, Tq. Aundha-
Nagnath, District Hingoli

PETITIONER

VERSUS

1. State of Maharashtra,
through Principal Secretary,
Home Department,
Mantralaya, Mumbai
2. Scheduled Tribe Certificate
Scrutiny Committee,
Aurangabad Region, Aurangabad
Plot No.10, E-9, Opp. CIDCO Bus Stand,
Aurangabad, Dist. Aurangabad,
through its Member Secretary
3. Superintendent of Police,
Hingoli, District Hingoli

RESPONDENTS

AND

WRIT PETITION NO. 12354 OF 2019

Malbarao s/o Sambhaji More,
Age : 22 years, Occu. Education,
represented through his father
Sambhaji s/o Malbarao More,
Age : 52 years, Occu. Service,
R/o Murtizapur Savangi, Tq.
Aundha Nagnath, Dist. Hingoli

PETITIONER

VERSUS

1. Scheduled Tribe Certificate
Scrutiny Committee,
Aurangabad Region, Aurangabad
Plot No.10, E-9, Opp. CIDCO Bus Stand,

Aurangabad, Dist. Aurangabad,
through its Member Secretary

2. Maharashtra University of Health
Sciences, Nashik,
Vani Dindori Road, Nashik,
through its Registrar

3. Samarth Educational Trust
Sawkar Homeopathy
Medical College, Devgaon Road,
Satara, District Satara,
through its Principal

RESPONDENTS

AND

WRIT PETITION NO. 12384 OF 2019

Aishwarya d/o Sambhaji More,
Age : 18 years, Occu. Education,
represented through her father
Sambhaji s/o Malbarao More,
Age : 52 years, Occu. Service,
R/o Murtizapur Savangi, Tq.
Aundha Nagnath, Dist. Hingoli

PETITIONER

VERSUS

1. Scheduled Tribe Certificate
Scrutiny Committee,
Aurangabad Region, Aurangabad
Plot No.10, E-9, Opp. CIDCO Bus Stand,
Aurangabad, Dist. Aurangabad,
through its Member Secretary
2. Aditya Diploma Institute of
Pharmacy College, Beed,
District Beed,
through its Principal

RESPONDENTS

Mr. Mahesh S. Deshmukh, Advocate holding for Mr. Sagar S. Phatale,
Advocate for the petitioners
Mr. P.S. Patil, A.G.P. for the respondents in writ petition No.12344/2019
and for respondent No.1 in other two writ petitions
None present for respondent Nos.2 and 3 in writ petition No.12354/2019

**CORAM : DIPANKAR DATTA, CJ &
 MANGESH S. PATIL, J.**

DATE : 29.09.2021

PC. :

1. These three writ petitions are directed against the common judgment and order dated 30.08.2019, passed by the Scheduled Tribe Certificate Verification Committee, Aurangabad Division, Aurangabad (hereafter “the Verification Committee”, for short) delivered in exercise of powers conferred by Section 7 of Maharashtra Act No.23 of 2001. By the impugned judgment and order, the petitioners’ caste claims have been invalidated.

2. The writ petitions are at the instance of a father, his son and daughter. They claim to belong to ‘koli mahadeo’ tribe. Reliance was placed by the petitioners on multiple documents to support their claim that they do belong to the said tribe. The Verification Committee, however, has disbelieved the claim of the petitioners and while relying on the report of the Police Inspector, Vigilance Squad, Verification Committee, which was forwarded to the petitioners along with the show-cause notice dated 06.10.2018, has proceeded to pass the order of invalidation.

3. In our view, the writ petitions ought to succeed on a short point. *Inter alia*, reliance was placed by the petitioners before the Verification

Committee on a particular document, which is a revenue record relating back to 1953-54 (hereafter “the said revenue record”, for short). Mr. Deshmukh, learned advocate for the petitioners, contends that it would be evident from the said revenue record that under the name of Malbarao Malharrao, i.e., the father of the petitioner in W.P. No.12344/2019 and the grandfather of the other two petitioners, ‘koli mahadeo’ tribe is written. According to him, this was the oldest document among all documents and the clinching evidence to return a finding in favour of the petitioners that their ancestors belonged to ‘koli mahadeo’ tribe. He has taken us through the entirety of the impugned judgment and order to urge that the said revenue record was not even considered by the Verification Committee while delivering its judgment and order.

4. Mr. Patil, learned A.G.P. appearing for the respondents, however, has drawn our attention to paragraph 7 (iii) of the impugned judgment to contend that the said document was duly considered by the Verification Committee.

5. Having perused the impugned judgment and order, we are of the view that apart from reference to the said revenue record at paragraph 3 (to the effect that the petitioners had relied on it) and paragraph 7(iii), as noted above, the Verification Committee has not dealt with the said revenue record at all. Even from the report of the Police Inspector, Vigilance Squad, we find that there was absolutely no adverse comment

made by him with regard to the said revenue record.

6. In a case of the present nature, the writ court is not supposed to sit in appeal over the judgment of the Verification Committee. The power of judicial review which the Constitution confers on high courts would, however, be available, but on limited grounds, such as, (i) the order is passed without considering or discarding relevant material, (ii) the order is based on consideration of extraneous matters, (iii) in making the order, a document or any evidence has been considered without giving access to the affected party or putting him on notice, (iv) the conclusions arrived at in the order are based on 'no evidence', and (v) the order is made in violation of the principles of natural justice. In all such cases, where an order is found to suffer from an infirmity on the existence of either one or more of the above situations and a case of grave and substantial prejudice is set up, the same can and ought to be interdicted on the ground of being perverse. We find that the first situation is satisfied in the present case inasmuch as despite the petitioners having submitted the said revenue record for consideration of the Verification Committee, there is no consideration worth the name. In paragraph 7 (iii), there is a reference that the said revenue record has been considered but no reason has been assigned as to why such document was not found to be creditworthy and thus, did not appeal to the Verification Committee for acceptance. This is a glaring error in the decision-making process, which strikes at the root and renders the ultimate judgment and order vulnerable.

7. Mr. Patil in the midst of hearing was heard to submit that the Verification Committee had to rush through the proceedings since the educational career of the petitioner in W.P. No.12354/2019 rested on such Committee's decision. This submission does not impress us at all. Apart from being factually incorrect (we have satisfied ourselves that the Verification Committee had sufficient time to decide the claims), rushing through proceedings of the present nature is neither advisable nor desirable. The Verification Committee has an onerous duty to discharge. It is a quasi-judicial authority having jurisdiction to decide rights of parties claiming to belong to the socially and economically backward classes. Each and every party, unsuccessful before the Verification Committee, may not have the resources to carry its decision to the High Court for a judicial review. In such circumstances, it is all the more necessary that decisions are rendered by it upon threadbare consideration of all the materials before it and not in any slipshod manner.

8. Be that as it may, for the foregoing reasons, we have no option but to set aside the impugned judgment and order and remit the matter to the appropriate jurisdictional Verification Committee for re-consideration of the petitioners' claim on the basis of all available material, including the said revenue record. It is ordered accordingly. Let an appropriate decision be taken by such committee, upon further verification of the said revenue record by a competent police inspector. If the material collected by such

police officer is adverse to the claim of the petitioners, they must be given access to the same for placing their version before the Verification Committee.

9. Having regard to the fact that one of the petitioners is a student and had been admitted to a Homeopathy medical course, as a reserved candidate, we encourage the Verification Committee to expedite its decision. It would be desirable if compliance of this order is effected as early as possible but not later than four months from date of its receipt. Needless to observe, any advantage derived by the petitioners pursuant to the tribe certificates, since invalidated but which stand revived in terms of this order, shall be subject to and abide by the decision of the Verification Committee to be rendered in terms hereof.

10. After the above order is dictated, Mr. Deshmukh brings to our notice that the direction contained in paragraph 9 of the order dated 05.04.2021, passed in W.P. No.12354/2019 has not been complied with by the respondent no.3. If indeed that be so, we direct such respondent to issue an internship completion certificate to the said petitioner with an endorsement that the same is 'provisional'. In the event the petitioner succeeds in the proceedings before the Verification Committee, he may approach the respondent no.3 for deletion of the endorsement 'provisional' and if such approach is made, appropriate action be taken.

11. The writ petitions stand disposed of. No costs.

[MANGESH S. PATIL, J.]

[CHIEF JUSTICE]

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