

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

WRIT PETITION NO.1055 OF 2021

AKASH SURESH BONLWAR AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA THRU ITS SECRETARY AND OTHERS

...
Advocate for Petitioners : Mr. S. R. Barlinge h/f
Mr. Boinwad Omgashad B.
AGP for Respondent Nos. 1 & 2: Mrs. R. P. Gaur
Advocate for Respondent No.4 : Mr. Bhandari Anand P.
...

**CORAM : RAVINDRA V. GHUGE &
SANJAY A. DESHMUKH, JJ.**

DATE : 12th December, 2022

PER COURT :

1. The petitioners have put forth clauses (B), (C) and (D) as under;

“B) The impugned order Judgment and order dated 18.12.2020 passed by the respondent no.2 committee, invalidating the Tribe Claim of the petitioner of “Mannervarlu” Schedule Tribe, may kindly be quashed and set aside respondent no.2 committee may kindly be directed to issue Tribe Validity Certificate of “Mannervarlu” Tribe in favor of the petitioners.

C) Pending hearing and final of the petition, the impugned Judgment and order dated 18.12.2020 passed by the respondent no.2 committee, invalidating the Tribe Claims of the petitioners of “Mannervarlu” Schedule Tribe, may kindly be stayed.

D) Pending hearing and final disposal of the present writ petition, the respondent no.3 and 4 may kindly be directed to not take any coercive action against the petitioner no.1 on the basis of impugned order dated 18.12.2020.”

2. On 20.06.2021, this Court issued notices to the respondents and protected the petitioners as against adverse action.

3. Petitioner No.1 has completed his Engineering course. Petitioner No.2 has applied for admission to the Bachelor of Dental Surgery (BDS). Reliance is placed on **Apporva Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No.1 and others, 2010 (6) Mh. L.J. 401.**

4. We have considered the submissions of the learned Advocates for the respective sides. Respondent No.4, the University, has not caused any appearance despite service of court notice.

5. We have considered the family tree placed before us by the petitioners and we find as under;

(a) The father of the petitioners had applied for validation of his claim of belonging to the ‘*Mannervarlu*’ Scheduled Tribe category. The Committee has validated his claim.

(b) The cousin uncle of Suresh, namely, Ashok Lachchmanna also received a validity certificate by the order of this Court dated

29.10.1990.

(c) Sangram, who is the son of Suresh, biological brother of Ashok, has also been granted validity by the High Court vide judgment dated 05.09.2007 delivered in Writ Petition No.6568/2004.

(d) The State of Maharashtra and the Committee approached the Honourable Supreme Court and in Civil Appeal No.7126/2014, an order was passed on 20.02.2019, thereby disposing of the Civil Appeal by concluding that there is no case made out to interfere with the order of the High Court.

(e) Rohit and Sanket, biological brothers are the sons of Ramrao who is the biological brother of Ashok and Suresh. Both Rohit and Sanket have been granted validity certificate by this Court vide order dated 24.07.2018 in Writ Petition No.7579/2018.

6. The learned AGP has strenuously canvassed that the Committee has arrived at a conclusion that there is some material available against these two petitioners, which can be termed as contra evidence and hence, the claim of these two petitioners has been invalidated. The High Court has granted a conditional order in favour of Rohit and Sanket.

7. Considering the above, we find that the law laid down in Apporva Vinay Nichale (Supra) would squarely apply to the case of

these two petitioners keeping in view that their father Suresh, cousin uncle Ashok, one cousin brother Sangram, son of Suresh and two cousin brothers, namely, Rohit and Sanket, sons of Ramrao have been granted validity certificate.

8. What intrigues us is that the Committee assigns reasons to invalidate claims of such applicants whose biological father, biological brothers of the father, blood relatives in the nature of cousin brothers, etc. have received validity certificates. In some cases, the Committee relies upon the fact that notice is being issued to certain validity holders who are suspected of having played a fraud or some new material has been noticed due to which such cases are sought to be reopened. However, after re-opening of such cases, the Committee does not proceed further. A similar situation was before this Court in the case of **Shweta Balaji Isankar Vs. State of Maharashtra & Ors.**, in Writ Petition No.5611/2018 decided by this Court [Coram: S. C. Dharmadhikari & Bharati H. Dangre JJ.] vide judgment dated 27.07.2018. A stand was taken in Shweta's case (Supra) that notice has been issued to that validity holder on whom Shweta had placed reliance. This Court concluded that merely issuing notice with an intention of reopening the case without resorting to any steps thereafter and keeping the case pending, cannot be a ground to deny

validity when several blood relatives have been granted such validity.

9. We deem it appropriate to reproduce Paragraph Nos.3 & 4 from Shweta (Supra), as under;

“3. On such a finding being rendered by the Committee, we called upon the learned AGP on the earlier two occasions to produce the record. We also indicated to the learned AGP as to how the certificate of validity is denied to the petitioner though she has established her relationship with the said Govind and only on the ground that a show cause notice has been issued, but no proceedings in furtherance thereof came to be initiated till date. The learned AGP sought time to file an affidavit. Now, the Joint Commissioner, Schedule Tribe Scrutiny Committee, Aurangabad has filed an affidavit in reply. That is taken on record. The said affidavit admits that the certificate of validity has been issued to her real uncle and cousin uncle of the petitioner. The affidavit admits that the petitioner relies heavily on these two documents, but clarifies that there is a suppression detected from the original record of the certificate holder and that is how a show cause notice has been issued to Govind. The show cause notice could not be taken to its logical end on account of the huge pendency of cases before this Committee. In all, 7,000 matters were pending on the date when this Joint Commissioner took charge and he has reduced the pendency by 2500 cases being decided. In the circumstances, he says that appropriate orders and directions be issued by this Court.

4. We are not impressed by this explanation and the justification not to proceed against a person who has

perpetrated a fraud on the public. If it is a serious allegation and which is termed as fraud, then, it should have been taken to its logical end. Mere issuance of a show cause notice in the present case would not suffice for there are two certificates of validity relied upon. The only reason assigned in the impugned order to discard them, cannot be sustained. The justification in the above affidavit is also not enough to straightaway discard the certificates of validity issued in the family. It is conceded that other reasons assigned in the impugned order cannot be supported in law.”

10. In view of the above, we are in respectful agreement with the law laid down in Apporva Vinay Nichale (Supra) and Shweta (Supra). If the Committee has decided to reopen any case of such a validity holder on whose validity the petitioners have relied upon, applying the law laid down in Shweta (Supra), the consequences that would be suffered by such a candidate if his claim is invalidated after reopening of the case, would befall upon these two petitioners. In Shweta’s case, this Court had then observed in Paragraph No.8 as under;

“8. This order does not prevent the Committee from proceeding against Govind in accordance with law and needless to further clarify that in the event Govind's claim is invalidated, all the consequences shall be taken by the petitioner as well.”

11. In view of the above, this petition is partly allowed. The impugned common order passed by the Scrutiny Committee dated 18.12.2020 stands quashed and set aside. The validity certificates

with reference to *Mannervarlu* Scheduled Tribe claims of the petitioners, shall be issued by the Competent Committee at Aurangabad prior to 2:00 pm (tomorrow) on 13.12.2022 since petitioner no.2 needs to submit his validity certificate by 5:30 pm (tomorrow).

12. Needless to state, this order would not be an impediment for the committee to proceed with the reopened case of Govind. In the event Govind's claim is invalidated, akin to the order passed on 27.07.2018 in the case of Shweta (*supra*), the effects flowing from the invalidity of Govind's claim will be applicable to Akash and Aparna. All consequences would, therefore, befall upon Akash and Aparna.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE, J.)