

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

917 WRIT PETITION NO.4448 OF 2022

SHILPA UTTAM NILAWAD AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

.....
Advocate for Petitioners : Mr. Vibhute Sunil M.
AGP for Respondents: Mr. S.K. Tambe
.....

**CORAM : RAVINDRA V. GHUGE AND
SANJAY A. DESHMUKH, JJ.
DATED : 22nd NOVEMBER, 2022.**

PER COURT :-

1. The petitioners are cousin sister and brother. Both are aggrieved by the order dated 27.12.2021, passed by respondent No.2-Committee, invalidating their claim of belonging to the 'Mannervarlu' - Scheduled Tribe.

2. Issue notice to the respondents, returnable forthwith, by the consent of the parties. The learned A.G.P. waives service of notice on behalf of respondent Nos.1 and 2.

3. The petitioners have putforth prayer clauses "A" and "B", as under:-

"A. This writ petition may kindly be allowed and petitioners may kindly be held and declared as belongs to Mannervarlu, Scheduled Tribe.

B. The impugned judgment and order dated 27.12.2021 passed by the respondent No.2 committee, invalidating the Tribe claims of the petitioners of Mannervarlu Scheduled Tribes, may kindly be quashed and set aside and respondent No.2 committee may kindly be directed to issue Tribe validity certificate of Mannervarlu Tribe to the petitioners.”

4. Both the petitioners have received their Mannervarlu Scheduled Tribe certificates on 11.01.2012 and 23.05.2017, respectively. Petitioner No.1 has completed her engineering. Petitioner No.2 has completed his B.A. Both aspire to seek education at the post graduate level.

5. The petitioners submits, on oath, that, 8 blood relatives from the paternal side have been granted validity certificates by the High Court. 14 blood relatives from paternal side, whose names are mentioned in para 8 in the memo of petition, have been granted the Tribe Validity certificates by the committee.

6. The contention is that these two petitioners are well covered by ***Raju Ramsing Vasave vs. Mahesh Deorao Bhivapurkar and Ors. (2008) 9 SCC 54*** and ***Apoorva Vinay Nichale vs. Divisional Caste Certificate Scrutiny Committee No.1 and Ors. 2010(6) Mh.L.J. 401.*** There cannot be an anomaly amongst the family members, especially the blood relatives from paternal side. There are

judgments delivered by this Court concluding that, when biological relatives from the paternal side are granted validity certificates, in some cases, the Vigilance Cell enquiry may not even be required, since it would be an exercise in repetition.

7. The petitioners have relied upon the following judgments.

- i) Apoorva Vinay Nichale vs. Divisional Caste Certificate Scrutiny Committee No.1 and Ors. 2010(6) Mh.L.J. 401,
- ii) Anand vs. Committee for Scrutiny and Verification of Tribe Claims and others, (2012) 1 SCC 113,
- iii) Sayanna vs. State of Maharashtra and others, (2009) 10 SCC 268,
- iv) Shweta Balaji Isankar vs. State of Maharashtra and Ors. (writ petition No. 5611 of 2018, decided on 27.7.2018, at Principal Seat Bombay),
- v) Madhura Nagesh Bondle vs. The State of Maharashtra & Ors. (writ petition No. 71 of 2022, decided on 05.01.2022),
- vi) Miss. Madhu Narayan Birkale vs. The State of Maharashtra and Ors, (writ petition No. 8372 of 2018, decided on 11.04.2022),
- vii) Vishnu Rajaram Thakur vs. The State of Maharashtra and Anr, (writ petition No. 647 of 2022 decided on 09.03.2022, at Principal Seat),
- viii) Anil Shivram Bandawar vs. District Caste Certificate Verification Committee, Gadchiroli and another, 2021 (5) Mh.L.J. 345,
- ix) Ishwar Naga Bondalwar and another vs. The District Caste

Certificate Scrutiny Committee and others (writ petition No. 472 of 2020, decided on 26.07.2021),

- x) Suraj Balaji Isankar vs. The State of Maharashtra and Ors, (writ petition No. 7895 of 2022, decided on 26.09.2022),

8. In **Shweta Isankar (supra)**, this Court (Coram: S.C. Dharmadhikari & Smt. Bharati H. Dangre, JJ.) noticed that several blood relatives from the paternal side of Shweta had been granted validity certificates. One of the related validity holder viz. Govind was subjected to issuance of a show cause notice, calling for an explanation as to why the certificate of validity, issued to him, should not be cancelled, as it's issuance was vitiated by fraud or suppression of material facts. This Court, therefore, concluded that the committee would be entitled to proceed against Govind in accordance with law and if, on re-scrutiny, Govind's claim is invalidated, the consequences, being suffered by Govind, would also befall upon Shweta.

9. In **Madhura Bondale (supra)**, this Court (Coram: S.V. Gangapurwala and S.G. Dige, JJ.) noticed that, there were 10 validity certificates issued to paternal relatives of the petitioner, including her father, cousin sister and cousin uncle. The petitioner **Madhura (supra)** had failed in the affinity test. The committee had issued a show cause notice to the related validity certificate holders. This

Court directed the committee to issue validity certificate and observed that the certificate would be subject to the decision that would be taken by the committee in the proceeding, reopened with relation to some of the validity holders.

10. In the case in hands, there are 14 relatives of the petitioners, who have been granted validity certificates by the committee. There are 8 other paternal relatives who have been granted validity certificates by this Court.

11. The learned A.G.P. submits, on instructions, that the validity certificate granted by this court to Vaishnavi Dattaatraya Nilawad has been assailed before the Hon'ble Supreme Court by a person viz. Pravin, by preferring a Special Leave Petition (C) No. 1003-1004 of 2021. The said Pravin was the intervenor in the proceedings with regard to Vaishnavi, that were considered by this Court in which she was granted the validity certificate. The Hon'ble Supreme court has issued notice. The State has filed reply in the S.L.P., which is now pending hearing.

12. In view of the above, 22 validity holders, amongst the paternal blood relatives of the petitioners, convince us to pass an order in the light of ***Raju Ramsing Vasave (supra)*** and ***Apoorva Vinay Nichale (supra)*** and the orders passed by this Court in ***Shweta Isankar (supra)*** and ***Madhura Bondle (supra)***.

13. As such, this petition is partly allowed. The impugned judgment of the committee, dated 27.12.2021, is quashed and set aside and the petitioners be granted “Mannervarlu” Tribe validity certificates, within 10 days, on the following conditions:-

- a) After the committee arrives at adverse findings in any of the reopened 14 cases, the petitioners would suffer the consequences in view of the orders passed by the committee, meaning thereby that, any order of invalidating the claim of the related validity holder, would entitle the committee to reopen the cases of these two petitioners.
- b) The consequences suffered by the relatives, on whose validity certificates the petitioners have relied upon, would befall upon the petitioners.
- c) In the event, the petitioners suffer adverse orders in this litigation, on account of the decision of the committee in relation to the related validity holders, both the petitioners would surrender their marks memo, degree certificates and disassociate themselves from their respective faculties.

14. This order would be subject to outcome in the S.L.P. No. 1003-1004 of 2021 (Pravin vs. State of Maharashtra and others) and/or the decision of the committee in the reopened cases of the paternal blood relatives of the petitioners.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE , J.)

rlj/