

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

910 WRIT PETITION NO.6279 OF 2021

Kum. Swapna d/o Narsinh Ambatwad
Age 22 years, Occ. Student,
R/o. Vilegaon, Taluka Dharmabad,
District Nanded.

...Petitioner

versus

1. The State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai-32.
2. The Scheduled Tribe Certificate
Scrutiny Committee, Aurangabad
Division, Aurangabad,
Through its Member Secretary.
3. The Sub Divisional Officer,
Dharmabad, District Nanded.
4. The Govt. Medical College,
Miraj, District Sangali,
Through its Dean.

... Respondents

...
Mr. A. S. Golegaonkar, h/f Mr. M. A. Golegaonkar, Advocate for Petitioner.
Ms. R. P. Gour, APP for the Respondent/State.

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**CORAM : RAVINDRA V. GHUGE AND
SANJAY A. DESHMUKH, JJ.
DATED : 8th DECEMBER, 2022.**

ORAL JUDGMENT: (Per Ravindra V. Ghuge, J.)

1. Rule. Rule made returnable forthwith and heard finally by the
consent of the parties.

2. The petitioner, Kum. Swapna Narsinh Ambatwad, a 22 years old student, has approached this Court on account of the impugned order of the competent committee, dated 20.11.2021, by which her claim of belonging to "Mannervarlu" Scheduled Tribe category has been invalidated. The petitioner has put forth prayer causes "B" and "C" as under:-

"B) To quash and set aside the impugned decision/order of the respondent no.2 Committee dated 20/11/2020 (Exh.N) invalidating the tribe claim of the petitioner and declare that the petitioner belonging to Mannervarlu Scheduled Tribe Reserved Category and also direct the respondent no. 1 to 3 not to take any coercive action against the petitioner on the basis of impugned decision dated 20/11/2020, by issuing appropriate writ or order or directions in the like nature.

C) To stay the impugned order/decision dated 20/11/2020 passed by the respondent no.2 Committee thereby invalidating the tribe claim of the petitioner (Exh.N) and direct the respondent no.1 to 3 not to take any adverse or criminal action on the basis of the impugned decision/order of the respondent no.2 Scrutiny Committee, pending hearing and final disposal of this Writ Petition."

3. We have considered the strenuous submissions of the learned advocate for the petitioner and the learned A.G.P. on 7.12.2022 and today. We have considered the petition paper-book with their assistance.

4. The impugned judgment of the competent committee is delivered by a common judgment in the matter of Kum. Bhagwati Shankar Ambatwad and Kum Swapna Narsinh Ambatwad. Kum. Bhagwati Shankar Ambatwad, was before this Court in writ petition No. 370 of 2021, challenging the same impugned judgment. By judgment dated 12.1.2021, delivered in Kum. Bhagwati (supra), this Court has recorded in paragraph Nos. 2, 3 and 4 as under:-

“2. Under the impugned judgment the tribe claims of the present petitioner and one Ku. Swapna D/o Narsinh Ambatwad are invalidated. Ku. Swapna is from the branch of Bhujangrao, whereas the present petitioner Ku. Bhagwati is from the branch of Rajeshwarrao. The Committee has relied upon the documents from the branch of Rajeshwarrao and Bhujangrao while invalidating the tribe claims of the petitioner and Ku. Swapna D/o Narsinh.

3. From the branch of Bhujangrao one Gayatri D/o Shivaji, Govind S/o Kishanrao and Avinash S/o Kishanrao had also applied for validity certificates of “Mannervarlu”, Scheduled Tribe. The Scrutiny Committee invalidated the tribe claims of these persons. They filed Writ Petitions before this Court. Govind S/o Kishanrao filed Writ Petition Bearing No.10515/2017 before Principal Seat at Bombay. The Division Bench at the Principal Seat at Bombay under judgment and order dated September 28, 2017 allowed the writ petition directed to grant validity to Govind. Subsequently, Gayatri D/o Shivaji filed Writ Petition bearing

No.4892/2019 and Avinash S/o Kishanrao filed Writ Petition bearing No.8204/2020. The Division Bench of this Court allowed both the Writ Petitions setting aside the judgment of the Committee and directed the Committee to issue validity certificate of "Mannervarlu", Scheduled Tribe to them.

4. The Committee has not disputed the relationship of the petitioner with the validity holders and the petitioners in the writ petitions referred to above."

5. It is, thus, obvious that Kum. Bhagwati and the present petitioner are from the branch of deceased Bhujangrao and Rajeshwarrao, who are blood relatives. Reliance was placed, by the committee before this Court in the case of Bhagwati (supra), on the case of Kum. Swapna (the present petitioner). This Court relied upon ***Apoorva d/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee, 2010 (6) Mh.L.J. 401***, and concluded that the petitioner Kum. Bhagwati needs to be granted validity considering the other validities amongst blood relatives. However, considering the submissions of the learned A.G.P., this Court noted in paragraph Nos. 6, 7 and 8, as under:-

"6. In light of the above, for the reasons recorded in the judgment of the paternal relatives of the petitioners in Writ Petition No.4892/2019 dated 05th July, 2019, Writ Petition No.8204/2020 dated 14th December 2020 and at the Principal Seat in Writ Petition No.10515/2017 dated December 28, 2017 the impugned judgment qua the petitioner is quashed and set

aside.

7. The Committee shall issue validity certificate to the petitioner of "Mannervarlu", Scheduled Tribe immediately.

8. In case, the Committee is successful in getting the judgment in Writ Petition No.4892/2019, Writ Petition No.8204/2020 and Writ Petition No.10515/2017 reviewed, then the present judgment would be subject to the decision of the same."

6. The petitioner has then relied upon the judgment delivered by this Court on 14.12.2020 in writ petition No. 8204 of 2020 filed by Avinash S/o Kisanrao Ambatwad vs. The State of Maharashtra and others. By judgment dated 14.12.2020, the claim of Avinash was allowed and he was granted validity certificate as "Mannervarlu" Scheduled Tribe.

7. The learned A.G.P. has strenuously opposed the petition on the ground that if there is suppression of material facts, either before the Committee or even before this Court, the claim of the petitioner needs to be negated. What is pointed out is that one Sadashiv Rajeshwar Ambatwad, who is the cousin paternal uncle of the petitioner before us, suffered invalidation at the hands of the then committee (prior to 2000 Act), vide order dated 10.6.1991. He did not assail the said order before any court. Suppressing the invalidity of Sadashiv Rajeshwar Ambatwad, Bhagwan Bhujanga Ambatwad,

another cousin uncle of the petitioner was granted validity certificate by the committee. On the basis of the said order, many relatives of the petitioner like claimant Sunil Rajeshwar Ambatwad, Smt. Surekha Bhagwan Ambatwad, Mahesh Bhagwan Ambatwad, Ravi Narsinh Ambatwad, Smt. Sheela Rajeshwar Ambatwad and Govind Kisan Ambatwad, received validity certificates.

8. The learned A.G.P. highlighted that Sadashiv Rajeshwar Ambatwad, who had suffered invalidation on 10.6.1991, once again obtained Mannervarlu S.T. certificate and approached the committee under 2000 Act and secured validity certificate on 1.2.2011. Based on his validity, his biological sister Sheela Rajeshwar Ambatwad secured the validity certificate. She then submits that considering these factors, the present petitioner should not be granted validity certificate.

9. Considering the above submissions of the learned A.G.P., we are reminded of the judgment delivered by this Court (Coram: S.C. Dharmadhikari and Smt. Bharti H. Dangre, JJ.) in ***Shweta Balaji Isankar vs. State of Maharashtra and others***, in writ petition No. 5611 of 2018 decided on 27.7.2018, wherein this Court concluded that if the committee finds that any mischief has been committed by a candidate, it has liberty to reopen his case or initiate appropriate action against the such candidate. After reopening the case, if said candidate suffers invalidation, the blood relatives who have relied on

his validity certificate, would suffer the same consequences. This Court held in paragraph 8 in **Shweta Balaji Isankar** (supra), 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.”

10. Considering the above and the ratio laid down in **Apoorva d/o Vinay Nichale** (supra), this petition is partly allowed. The impugned order dated 20.11.2020 stands quashed and set aside. The committee shall issue “Mannervarlu” Scheduled Tribe validity certificate to the petitioner by 2.00 p.m. on 12.12.2022.

11. Needless to state, the committee is at liberty to initiate appropriate steps for reopening the case of Sadashiv Rajeshwar Ambatwad and/or initiate further proceedings as permissible under Section 10 of the 2000 Act.

12. So also, in the event of any blood relatives of the petitioner suffering reopening of the case and invalidation thereof, the consequence suffered by such blood relatives would also befall on the present petitioner Kum. Swapna Narsinh Ambatwad and the committee would be at liberty to reopen the case of the present

petitioner by following the due procedure laid down in law.

13. Rule is made party absolute in the above terms.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE , J.)

rlj/