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

902 WRIT PETITION NO.9163 OF 2019

**SUDHAKAR ANANDRAO BODHGIRE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

....

Mr C. R. Thorat a/w Mr O. D. Totawad, Advocates for petitioner;
Mr P. S. Patil, A.G.P. for respondents/State

AND

903 WRIT PETITION NO.9986 OF 2019

**SHIVRAJ VILASRAO BODHGIRE
VERSUS
SCHEDULED TRIBE CERTIFICATE SCRUTINY
COMMITTEE AURANGABAD AND ANOTHER**

AND

905 WRIT PETITION NO.10000 OF 2019

**BALAJI KASHIRAM BODHGIRE
VERSUS
SCHEDULED TRIBE CERTIFICATE SCRUTINY
COMMITTEE AURANGABAD AND OTHERS**

AND

906 WRIT PETITION NO.10021 OF 2019
WITH CA/13673/2021 IN WP/10021/2019

**DEVIDAS DIGAMBAR BODHGIRE
VERSUS
SCHEDULED TRIBE CERTIFICATE SCRUTINY
COMMITTEE AURANGABAD AND OTHERS**

AND

904 WRIT PETITION NO.9999 OF 2019

**MANAS BALAJI BODHGIRE
VERSUS**

(2)

SCHEDULED TRIBE CERTIFICATE SCRUTINY
COMMITTEE AURANGABAD AND ANOTHER

....

Mr S. S. Phatale, Advocate for petitioners;
Mr P. S. Patil, A.G.P. for respondents/State
Mr A. D. Wange, Advocate for respondent No.2 in WP/9986/2019

AND

908 WRIT PETITION NO.7238 OF 2022

SANKET MANIK BODHGIRE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
SECRETARY AND OTHERS

AND

WRIT PETITION NO.5694 OF 2021

MANISH GOVINDRAO BODHGIRE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

AND

WRIT PETITION NO.5740 OF 2021

RUPALI GURUNATH BODHGIRE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

AND

WRIT PETITION NO.5736 OF 2021

PRATIKSHA MANOHAR BODHGIRE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

AND

WRIT PETITION NO.8442 OF 2020

YOGESH UTTAMRAO BODHGIRE
VERUS
THE STATE OF MAHARASHTRA AND OTHERS

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AND
WRIT PETITION NO.5771 OF 2021
MINAKSHI GOVIND BODHGIRE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

....
Mr S. M. Vibhute a/w Mr G. K. Chinchole Advocates for
petitioners;
Mr P. S. Patil, A.G.P. for respondents/State
Mr R. B. Narwade, Advocate for respondent No.5 in
WP/8442/2020

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

DATE : 21st December, 2022

PER COURT:

1. All the petitioners in the these petitions, have suffered invalidation of their claims of belonging to the 'Mannervarlu' Scheduled Tribe category. Following are the cases, in which the petitioners are the students, who are admitted to the Professional Colleges on seats, which have been reserved for the Scheduled Tribe category :-

- I) Writ Petition No.5736/2021
- II) Writ Petition No.5740/2021
- III) Writ Petition No.5694/2021
- IV) Writ Petition No.5771/2021
- V) Writ Petition No.8442/2021
- VI) Writ Petition No.9099/2019
- VII) Writ Petition No.7238/2022

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2. Following are the petitions filed by those petitioners, who have suffered invalidation of their claims of belonging to 'Mannervarlu' Scheduled Tribe category. All of them are in service and they have acquired employment on the posts, which were reserved for the Scheduled Tribe categories :-

- I) Writ Petition No.9163/2019
- II) Writ Petition No.9986/2019
- III) Writ Petition No.10000/2019

3. In Writ Petition No.10021/2019, the petitioner has also suffered invalidation of his claim of belonging to the 'Mannervarlu' Scheduled Tribe category. He acquired employment on a post, which was reserved for the Scheduled Tribe category. He has now retired from service.

4. All these petitioners are related to each other from the paternal side. The family tree placed before the Court at page No.29 in Writ Petition No.7238/2022, indicates the oldest person as 'Manika Bodhgire. Manika had four biological children by name Shivaji, Kashiram, Chinnayya and Chinnoda. Shivaji had three biological children, namely, Dhondiba, Ranba and Kondiba.

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Kashiram had two biological children, namely, Manika and Digambar. Chinnayya had one son, namely, Chinnoda. It is undisputed that, all these petitioners are from these branches of the four biological brothers.

5. The record placed before us indicates that, 15 of these family members have been granted validity certificates by the Competent Committees. In addition, 8 of their relatives were granted validity certificates under the orders of the High Court. In all, there are 23 validity holders in the family tree. Those, who have been granted validity certificates, have been mentioned by the Committee in the impugned order itself. This aspect is also undisputed.

6. The learned A.G.P. has tendered written notes of submissions and has prayed that these written notes must be considered by this Court. We are, therefore, reproducing the written notes of submissions, tendered under the signature of the Joint Commissioner and Vice Chairman, Scheduled Tribe Caste Certificate Verification Committee, Kinwat, Head Quarter Aurangabad, verbatim herein below :-

“Written Notes of Argument on behalf of Respondent No. 2

The petitioner has challenged order dated 31.02.2022 passed by the Respondent No 2 in this writ petition.

Contra-Entries which were not produced by the validity holders before the Committee :

Sr. No	Name	Relation with petitioner	Caste Mentioned in School Record	Name of the School	Year
01	Shankar Manika Bodhgire	Cousin Grandfather	Manurwar	Z.P.C.P.S.Fulwal, Tq.Kandhar. Dist: Nanded	1955
02	Shankar Manikrao Bodhgire	Cousin Grandfather	Manarwar	Shri. Shivaji Vidyamandir, Primary School Kandhar,Nanded.	1960
03	Shankar Manikrao Bodhgire	Cousin Grandfather	Munnarwar	Shri. Shivaji Vidyamandir, Primary School Kandhar,Nanded.	1962
04	Shankar Manikrao Bodhgire	Cousin Grandfather	Munarwar	Z.P.C.P.S.Fulwal, Tq.Kandhar. Dist: Nanded	1963
05	Rajaram Manikrao Bodhgire	Cousin Grandfather	Munurwar	Z.P.C.P.S.Fulwal, Tq.Kandhar. Dist: Nanded	1963
06	Shivram Kaneri Bodhgire	Uncle	Munarwar	Z.P.C.P.S. Badarpura, Tq.Kandhar Dist : Nanded	1965
07	Shakuntala Shivaji Bodhgire	Cousin Aunt	Munarwar	Manovikas Secondary School, Kandhar, Dist:Nanded	1970
08	Shivram Kaneri Bodhgire	Cousin Uncle	Munnarwar	Shri Shivaji High School Kandhar.	1971
09	Devidas Digambarrao Bodhgire	Cousin Grandfather	Munarwar	Z.P.C.P.S.Fulwal, Tq.Kandhar. Dist: Nanded	1972
10	Shakuntala Shivaji Bodhgire	Cousin Aunt	Munnarwar	Z.P.High School (Girls) Kandhar	1974

The petitioners intentionally not shown the name of Shankar Manika @Manikrao Bodhgire in their Genealogy. The Manurwar, Munarwar and Munnarwar castes are included in Special Backward Category.

Interpolation in the caste column as under :

Sr. No	Name	Relation with petitioner	Caste Mentioned in School	Name of the School	Year	Remark
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			Record			
01	Ganesh Shivajirao Bodhgire	Cousin Uncle	Munarwarlu	Shri. Shivaji Vidyamandir, Primary School Kandhar, Nanded.	1964	“lu” Added in different ink
02	Shivaji Ranba Bodhgire	Cousin Grandfather	Manurwarlu	Shri Shivaji High School Kandhar.	1966	“lu” Added in different ink
03	Ganesh Shivajirao Bodhgire	Cousin Uncle	Manurwarlu	Shri Shivaji High School Kandhar.	1966	“lu” Added in different ink
04	Devidas Digambar Bodhgire	Cousin Grandfather	Munarwarelu	Z.P.C.P.S. Jangamwadi Sankul, bahadarpura, Kandhar	1967	“lu” Added in different ink
05	Shivram Kaneri Bodhgire	Uncle	Munurwarlu	Z.P.C.P.S. Badarpura, Tq.Kandhar Dist : Nanded	1969	“lu” Added in different ink
06	Bapurao Manik Bodhgire	Cousin Grandfather	(Manurwar) Manerwarlu	Shri Basweshwar Vidyalaya, Fulwal, Kandhar	1970	Manurwar is Circled and Subsequently Manerwarlu is Added in a different Ink
07	Babu Kondiba Bodhgire	Cousin Grandfather	(Manurwar) Manerwarlu	Shri Basweshwar Vidyalaya, Fulwal, Kandhar	1971	Manurwar is Circled and Subsequently Manerwarlu is Added in a different Ink
08	Bapurao Manik Bodhgire	Cousin Grandfather	Munnarwarlu	Shri Basweshwar Vidyalaya, Fulwal, Kandhar	1972	“lu” Added in different ink
09	Babu Kondiba Bodhgire	Cousin Grandfather	Munnarwarlu	Shri Shivaji High School Kandhar.	1972	“lu” Added in different ink
10	Sumitra Kashiram Bodhgire	Cousin Grandmother	Munarwarlu	Z.P.C.P.S. Jangamwadi Sankul, bahadarpura, Kandhar	1972	“lu” Added in different ink and handwriting
11	Nirmalabai Anandrao	Aunt	Munarwarelu	Z.P.C.P.S. Jangamwadi Sankul, bahadarpura, Kandhar	1972	“lu” Added in different ink and handwriting
12	Sulochna Shivaji Bodhgire	Cousin Aunt	Manurwarlu	Manovikas Secondary School kandhar	1974	“lu” Added in different ink
13	Ramesh Shivaji Bodhgire	Cousin Uncle	Munnerwarlu	Manovikas Secondary School kandhar	1975	“lu” Added in different ink
14	Usha Shivaji Bodhgire	Cousin Aunt	Munnerwarlu	Manovikas Secondary	1976	“lu” Added in different

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				School kandhar		ink
15	Vilas Kashiram Bodhgire	Cousin Uncle	Munnarwarlu	Z.P.C.P.S. Jangamwadi Sankul, bahadarpura, Kandhar	1976	"lu" Added in different ink and handwriting
16	Sulochna Shivajirao Bodhgire	Cousin Aunt	Munarwarelu	Manovikas Secondary School kandhar	1977	"relu" Added in different ink

Tendering of incomplete genealogy :

The petitioners have intentionally submitted incomplete genealogy to suppress the above contra-entries so also the interpolation. This appears to be done to get the benefit of validity certificates issued in favor of the blood relatives. As the petitioners have suppressed above contra-entries, the benefit of validity certificate cannot be given to the petitioners.

As per the Government Resolution dated 24-04-1985. :

Taking undue advantage of facilities provided to Scheduled Tribe is found in non-tribal community and therefore to curb the said, as per Maharashtra Government Resolution, Tribal Development No CBC 1080/48505 (1051)D.11, Dated 18 June, 1983, a Committee under the Chairmanship of Hon'ble Minister (Tribal Welfare for giving recommendations to the Government after considering this question, and as per the recommendations of said committee the Government of Maharashtra has issued Government Resolution, Tribal Development Number 1684/(309)D.11/dated 24 April 1985 thereby issued guidelines and precautions to be taken by the competent authorities at the time of issuance of Scheduled Tribe Certificates.

*The comparative chart of Scheduled Tribe and similar tribes enlisted in Scheduled Tribe list, and non-tribal group caste tribes taking benefit of similar nomenclature available in State of Maharashtra is shown in a chart appended with said Government Resolution. Wherein, non Scheduled Caste such as **1. Munurwar 2. Munnarwar 3. Manerwar** are shown who are likely to obtain Tribe*

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Certificate in the name of Mannerwarlu Scheduled Tribe by taking advantage of similar nomenclature and general habitat of non scheduled caste\tribe.

The persons having similar nomenclature are taking undue advantage of similarity in nomenclature that of Scheduled Tribe. This fact is noticed by the Hon'ble Supreme Court in the Case of State of Maharashtra Vs Milind and others, where in Hon'ble Supreme Court has observed as under :

“Unfortunately, even some better placed persons by producing false certificates as belonging to Scheduled Tribes have been capturing or cornering seats or vacancies reserved for Scheduled Tribes defeating the very purpose for which the provisions are made in the Constitution. The Presidential Orders are issued under Articles 341 and 342 of the Constitution recognizing and identifying the needy and deserving people belonging to Scheduled Castes and Scheduled Tribes mentioned therein for the constitutional purpose of availing benefits of reservation in the matters of admissions and employment. If these benefits are taken away by those for whom they are not meant, the people for whom they are really meant or intended will be deprived of the same and their sufferings will continue. Allowing the candidates not belonging to Scheduled Tribes to have the benefit or advantage of reservation either in admissions or appointments leads to making mockery of the very reservation against the mandate and the scheme of the Constitution.”

Considering the said judgment, the applicants are aware that, they does not belongs to Mannerwarlu Scheduled Tribe and belongs to Munarwar/Munurwar which is Special Backwar Class category.

The Hon'ble Supreme Court has issued guidelines in Kumari Madhuri Patil Vs Addl. Commissioner Thane for verification of Scheduled Tribe claims. The Hon'ble has observed that each case must be considered in the backdrop of its own facts. Taking into consideration the observations and parameters laid down by Hon'ble Supreme Court in Kumari Madhuri Patil's case and decided the claims of the petitioners independently.

This Hon'ble Court has considered the effect of contra-entries in the case of Priyanka Balaji Wadikar and another Vs The State of Maharashtra and others in Writ Petition No. 9267 of 2021. This Hon'ble Court in para nos 16 to 18 observed as under:

16. Additionally the Committee has considered the School records of as many as 15 paternal side relatives of the petitioners and in respect of all, there are consistent entries of caste of 'Koli'. Thus, before the Committee, there were three sets of entries/evidence : (i) Validity certificate issued in favour of three maternal side relatives of father, (ii) Entries of 'Koli Mahadeo' in respect of some of the paternal side relatives, in which there were subsequent additions, (iii) Consistent entries of 'Koli' in School records of 15 paternal side relatives.

17. In the light of this evidence emerging before the Committee, it cannot be said that the finding recorded by the Committee is, in any manner, perverse. Expecting the Committee to blindly follow the validity certificate of father would tantamount to perpetrating the illegality. The Committee has, in our opinion, rightly corrected the error, albeit after some delay and has now proceeded to issue show cause notice to the father.

18. What remains is dealing with various judgments cited by Mr. Vibhute :

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(i) *Apoorva (supra)*, it has been held that when the candidate submits the caste validity certificate granted earlier certifying that the blood relation of the candidate belongs to the same caste, the Committee may grant such certificate without calling for the vigilance Cell report. However, this decision is of a little assistance to the petitioners, as the said decision further clarifies that if the Committee finds that the earlier caste certificate is tainted by fraud or is granted without jurisdiction, the Committee may refuse to follow the earlier decision and may refuse to grant certificate to the applicant before it. In the present case, the Committee has rightly gone through the records of the case of the father of the petitioners and has rightly arrived at the conclusion that the father's validity certificate cannot be the basis for upholding the tribe claim of the petitioners.

(ii) *Prakash (supra)*, there were pre constitutional entries, which were taken into consideration while deciding the claim of the brother of the petitioner therein, which is not the case here. In that case, this Court held that the Committee cannot be permitted to take diagonally opposite Judgment stand on the same material in two different cases. However, in that case there was no dispute about the correctness of the validity certificate granted in the case of brother of the petitioner therein, whereas, in the present case, the Committee has doubted the correctness of the validity certificate of the father for sound reasons. Therefore, this judgment is clearly distinguishable.

(iii) *Shweta (supra)* is relied upon by the petitioners to contend that mere issuance of show cause notice to the father, cannot be a reason to straightaway discard his certificate of validity. In the present case, we have gone through the records relied upon in the case of the father and have observed that grant of validity certificate to father was by ignoring the additions made in the School records of two paternal relatives and by relying upon the validity certificates of maternal relatives. Therefore, this decision is of no assistance to the petitioners.

(iv) *Sayanna (supra)*, the controversy was about the addition of the word “lu” in the register of School. The Court has decided the question whether the Committee was justified in coming to the conclusion about the addition of the said word based on records before it. In the present case Judgment there is absolutely a factual controversy about the subsequent addition of words ‘Koli Mahadeo’ and ‘Mahadeo’ in the School records of two paternal side relatives of the petitioners. In fact, such subsequent additions have been noticed by the Vigilance Cell, not only while deciding the tribe claim of the petitioners, but also while deciding the tribe claim of their father. Therefore, the judgment in *Sayanna (supra)* has no application to the present case.

(v) *Miss. Madhu (supra)* merely follows the decision of the Supreme Court in *Sayanna* and therefore has no application to the facts and circumstances of the present case.

(vi) Anil and Ishwar (*supra*) are the decisions of this Court relating to the show cause notices for cancellation of the validity certificates issued earlier. This Court has gone into aspect as to whether the issuance of such show cause notices in the facts and circumstances of those cases was warranted or not. In the present case, the said issue is not involved, therefore, both the decisions are of little assistance to the petitioners. (vii) Jaywant (*supra*) the issue was about the relatives of the appellants therein not being residents of the areas mentioned in the Presidential Order, 1956 and therefore, the said order also has no application to the present case.

Considering the suppression of contra-entries of Munurwar, Manurwar, Munnarwar, which a Special Backward Class and considering the ratio of above judgment of this Hon'ble Court the benefit of Validity Certificates cannot be given to the present petitioners.

Show Cause Notices issued to following blood relatives of the petitioners.

1. Kum. Ashwini Sudhakar Bodhgire
2. Bapurao Manikrao Bodhgire
3. Govind Koneri Bodhgire
4. Gurunath Koneri Bodhgire
5. Keshav Hanmantrao Bodhgire
6. Mangesh Govind Bodhgire
7. Manohar Koneri Bodhgire
8. Sachin Bapurao Bodhgire
9. Sanjay Hanmantrao Bodhgire
10. Sarika Shivram Bodhgire
11. Shivram Koneri Bodhgire
12. Suchita Shivram Bodhgire
13. Sunil Bapurao Bodhgire
14. Uttam Koneri Bodhgire
15. Vinod Bapurao Bodhgire

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- 16.Devanand Kerbarao Bodhgire
- 17.Dhanraj Ganeshrao Bodhgire
- 18.Dilip Shivajirao Bodhgire
- 19.Rajesh Ganeshrao Bodhgire
- 20.Ramesh Shivajirao Bodhgire

Above mentioned validity holders are close blood relatives of the petitioner and the respondent no 2 Committee has issued show cause notices to them on dated 06.07.2021 and date of hearing was given as 22.07.2021. But on that i.e. on 22.07.2021 all the above mentioned validity holders were absent. Thereafter hearing was scheduled on 10.08.2021 and on 10.08.2021 validity holders appeared through their Advocate and sought adjournment. Therefore the hearing was adjourn till 31.08.2021. Thereafter hearing was scheduled on 29.11.2021. That on 06.12.2021 the applicants have filed objection application through their advocate.”

7. The learned A.G.P. further submits that, the validity certificates granted under the orders of this Court would indicate that this Court has observed that, if any of the validity holders on which the petitioners rely, are reopened, and if any of these validity holders suffered invalidation, the said candidates, as well as the petitioners would suffer the consequences flowing from such invalidation.

8. From the reproduced written notes of submissions of the Committee, it appears that, there are 20 relatives amongst the family tree, who have been issued with show cause notices for

reopening of their cases. The learned A.G.P. has relied upon the orders passed by this Court at the Principal Seat, dated 21/08/2019 in Writ Petition No.9056/2019 (Ganesh Sudhakar Bodhgire Vs. State of Maharashtra and others) and 22/08/2019 passed in Writ Petition No.9058/2019 (Kum. Mayuri Manik Bodhgire Vs. State of Maharashtra and others), wherein the Committee was directed to complete the hearing in the reopened cases within six months. It is further conceded that, though the six months time were granted vide the above orders dated 21/08/2019 and 22/08/2019, the said cases are still pending.

9. The petitioners have invoked our jurisdiction under Article 226 of the Constitution of India, by preferring these petitions for challenging the orders passed by the Committee, thereby invalidating their individual claims of belonging to the 'Mannervarlu' Scheduled Tribe Category. The thrust of the submissions of all these petitioners is based on the Judgment delivered by the Division Bench of this Court in **Apoorva d/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No.1, Nagpur, 2010 (6) Mh.L.J.401 : AIR 2010 (6) BOM R 21**. The petitioners placed reliance on paragraph Nos.7 and 9 of the said judgment, which read as under :-

“7. We thus come to the conclusion that when during the course of enquiry the candidate submits a caste validity certificate granted earlier certifying that a blood relation of the candidate belongs to the same caste as that claimed by the applicant, the committee may grant such certificate without calling for Vigilance Cell Report. However, if the committee finds that the earlier caste certificate is tainted by fraud or is granted without jurisdiction, the Committee may refuse to follow and may refuse to grant certificate to the applicant before it.

9. In the present case, we find that the committee has disbelieved the petitioner's case that she belongs to Kanjar Bhat after calling the school leaving certificate of petitioner's father and noticing that the original caste written on it was 'Thakur' and that was subsequently changed to Kanjar Bhat. The committee observed that the caste has been changed without complying with the procedure prescribed by Section 48(e) and 132(3) of Mumbai Primary Education Act. In fact, the caste has been changed on the basis of the affidavit. From the findings of the committee it appears that the committee has observed that the change of caste has been done illegally. Obviously, the committee which decided the caste claim of the petitioner's sister did not hold the same view, otherwise it would have refused to grant validity. In the circumstances, we are of the view that the committee which has expressed a doubt about the validity of caste claim of the petitioner and has described it as a mistake in its order, ought not to have arrived at a different conclusion. The matters pertaining to validity of caste have a great impact on the candidate as well as on the future generations in many matters varying from marriage to education and enjoyment, and therefore where a committee has given a finding about the validity of the caste of a candidate another committee ought not to refuse the same status to a blood relative who applies. A merely different view on the same facts would not entitle the

committee dealing with the subsequent caste claim to reject it. There is, however, no doubt as observed by us earlier that if a committee is of the view that the earlier certificate is obtained by fraud it would not be bound to follow the earlier caste validity certificate and is entitled to refuse the caste claim and also in addition initiate proceedings for cancellation of the earlier order. In this view of the matter, we are of the view that the petition must succeed. Rule is made absolute in above terms. The Caste Scrutiny Committee is directed to furnish the caste validity certificate to the petitioner.”

10. The learned A.G.P. has strenuously opposed these petitions on the basis of the written notes of submissions. Contention is, that merely because any family member has been granted a validity certificate, this Court should not blindly follow such decision. If contra evidence is available and if it can be shown that the claims are fraudulent or bogus, the Court can ignore such validity certificates.

11. The submission of the learned A.G.P. could be well placed in a case where a solitary or two, validity certificates are issued to the family members and such cases have been reopened after noticing a fraud or contra material, which would defeat the claim. However, this is not the factual matrix before this Court in view of 15 blood relatives having been granted validity certificates by

the Committee and in addition, 8 petitioners whose claims were invalidated by the Committee, succeeded before this Court and under the orders of this Court, 8 petitioners were granted validity certificates, of course with the rider that, if any validity holder from the family suffers invalidation, this would also affect the petitioners.

12. We find that this was the view taken earlier by this Court in **Shweta Balaji Isankar Vs. State of Maharashtra and others, 2018 SCC OnLine Bom 10363**, wherein this Court (Coram :- S. C. Dharmadhikari and Bharati H. Dangre, JJ.) had concluded in paragraph Nos.2 to 4, as under :-

“2. On the earlier occasion, we found that though the petitioner produced credible evidence in the form of certificates of validity issued to her real uncle Govind Sambhaji Isankar and which concededly has been issued way back on 5th December 2005 and another certificate of validity dated 5th September 2006 to his cousin uncle Ramdas Sambhaji Isankar, the Committee finds that the certificate of validity issued to the real uncle Govind, is not free from suspicion. It is held by the Committee in the impugned order that a notice to show cause has been issued to said Govind on 14th September 2017, calling upon him to show cause as to why this

certificate of validity should not be cancelled as its issuance is vitiated by fraud or suppression of material facts by the said Govind.

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.”

13. In the light of the above, we find that it would be inappropriate to keep these matters pending before this Court for a few years, in anticipation of a decision in the cases of those validity holders, who have been issued with show cause notices. It is apparent that show cause notices have been issued as long ago as from 2021 onwards. In the cases before the Principal Seat in matters of Ganesh Sudhakar Bodhgire (supra) and Kum. Mayuri Manik Bodhgire (supra), the notices were issued in 2018-2019. This Court had granted six months time to the Committee to conclude such enquiries. We are informed that these enquiries

are still pending for a period of more than 3 years. It is in this backdrop, that we find it inappropriate to keep this petitions pending, waiting for the Committee to take a decision in the cases, in which show cause notices have been issued and no progress has been made. This was an exact situation in Shweta Isankar (*supra*).

14. The students before this Court have tendered their individual undertakings, which are marked as 'X-1' for identification. These affidavit undertakings disclose that the petitioners would return their Marks Memos/Degree Certificates and disassociate themselves from the Profession, if their claims are invalidated any time in future, in the light of the law laid down by the Hon'ble Supreme Court in **Chairman and Managing Director, Food Corporation of India and others Vs. Jagdish Balaram Bahira and others, (2017) 8 SCC 670**.

15. Those petitioners, who are in service today, have sought protection against termination and have filed their individual affidavit undertakings, which are marked as "Y-1" for identification. They undertake that they would return all service benefits and would not be entitled to continue in service, if their

claims are invalidated at any time in future, in the light of the law laid down by the Hon'ble Supreme Court in **Chairman and Managing Director, Food Corporation of India and others (supra)**.

16. In Writ Petition No.10021/2019, the petitioner is a retired employee and he has also filed his affidavit undertakings, declaring that, if he suffers invalidation any time in future, his pensionary benefits would be stopped and the law laid down by the Hon'ble Supreme Court in **Chairman and Managing Director, Food Corporation of India and others (supra)** would equally bind him.

17. The learned A.G.P. relies on **Rushikesh Bharat Garud Vs. State of Maharashtra and others, (2021) 1 SCC 207**, more particularly, paragraph Nos.4 to 7, which read as under :-

“4. Be that as it may. Now, it is the case on behalf of the appellant that the cases of the father of the appellant and his cousins have been re-opened and show-cause notices have been issued to show cause why their caste certificates be not cancelled. Therefore, the validity of the caste certificates in favour of the father of the appellant and in favour of his cousins is at large before the Security Committee. Therefore, it will be appropriate if the cases of all, namely, father of the appellant, cousins of the appellant

and the appellant herein be considered together, to avoid any conflicting orders.

5. In view of the above and without expressing anything on the validity of the caste certificate issued in favour of the appellant, we set aside the impugned judgment and order passed by the High Court and remand the matter to the Scrutiny Committee to consider the validity of the caste certificate issued in favour of the appellant afresh along with the cases of his father and his cousins, namely, Bharat Nagu Garud, Nilima Rohidas Garud, Pravin Rohidas Garud, Priyanka Rohidas Garud, Rohidas Nago Garud and Ramdas Nagu Garud. The Scrutiny Committee to pass fresh order/s in accordance with law and on its own merits and on the basis of the material available on record and/or that may be produced and pass a speaking order at the earliest, preferably within a period of three months from today.

6. At the cost of repetition, it is observed that this Court has not gone into the merits of the case at all and has not observed anything on the validity of the caste certificate issued in favour of the appellant.

7. The present appeal is accordingly allowed to the aforesaid extent. However, in the facts and circumstances of the case, there shall be no order as to costs.”

18. He submits that this Court may remand all these matters to the Tribe Committee for reconsideration. The learned Advocates for the petitioners submit that, the view taken in Rushikesh Garud (supra) is to be restricted to the facts of that case since the case of the father of the appellant was reopened and was being proceeded

with. In the instant case, show cause notices have been issued in 2018 and onwards, the last being issued on 31/08/2021. The Committee has conceded before this Court that due to heavy workload, they were unable to proceed with these cases. Per contra, this Court has granted validity certificates to 8 of the blood relatives by delivering judgments and 15 other blood relatives have received their validity certificates under the orders of the Committee.

19. The learned A.G.P. has submitted on instructions that there are several thousands of cases before the various Committees. There are also many cases, which may run in thousands, which have been granted a time frame under the orders of the High Court or the Hon'ble Supreme Court. The workload is too heavy and the Committee cannot assure the Court as to the time within which the reopened cases would be concluded.

20. We are of the view that while exercising our writ jurisdiction under Article 226 of the Constitution of India being a Court of equity, we have to ensure that, while doing justice to a litigant, the balance of convenience and the irreparable harm have to be considered and the equities have to be measured. Half of

the petitioners before us are students, whose career hangs in balance and depend upon the decision of their reserved category claims. The remaining are the employees in various services, whose increments, promotions, service benefits and retiral benefits depend upon the validity certificates. In anticipation that the Committee would conclude the reopened cases and deliver orders in such time which the Committee itself cannot speculate or suggest, these petitions cannot be kept pending as all these petitioners would find their destiny hung in balance. Instead, if we pass an order of granting validity certificates with a rider that, if those blood relatives on whose validity certificates, these petitioners have relied upon, suffer invalidation, the consequences suffered by such candidates, would be fall upon these petitioners, the ends of justice would met. It is after considering these aspects, that we deem it appropriate to pass orders in these petitions.

21. In view of the above, these petitions are partly allowed. The impugned orders of the Committee, invalidating the 'Mannervarlu' Schedule Tribe claims of all these petitioners, are quashed and set aside with the following directions :-

(26)

(a) The petitioners/Students, who have tendered their affidavit undertakings, shall be bound by the statements made therein and the further directions of this Court. If their claims are subsequently invalidated, in the circumstances recorded herein above, they would also be susceptible to reopening of their cases and they would not oppose the reopening of their cases on any technical ground or any objection. If their claims are finally invalidated, they would surrender their Marks Memos/Degree Certificates and disassociate themselves from the profession.

(b) The affidavit undertakings tendered by those petitioners, who are in employment, would also bind them, as also by the conditions set out herein above.

(c) The petitioner, who has retired from service, would be entitled for the retiral benefits. If his claim is invalidated in the light of the circumstances set out herein above, he would be deprived of all retiral benefits subject to his litigation journey.

22. In view of the above, the Competent Committees shall issue validity certificates to each of these petitioners, as expeditiously as possible and preferably by 5.00 p.m. on 23/12/2022 with respect to the petitioners/Students, who have to tender these validity certificates on 24/12/2022, whose names are mentioned as under :-

1. Sanket Manik Bodhgire
2. Rupali Gurunath Bodhgire
3. Manish Govindrao Bodhgire
4. Manas Balaji Bodhgire
5. Yogesh Uttamrao Bodhgire

23. With regard to the other petitioners, such validity certificates can be issued until 10/01/2023.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE, J.)

sjk