

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

WRIT PETITION NO.379 OF 2023

**SHUBHAM BABURAO PALEKAR
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
SECRETARY AND OTHERS**

...
Advocate for the Petitioner : Shri Jadhavar Pratap V.
AGP for Respondents 1 and 2/State : Shri P.S. Patil
...

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

DATE :- 16th January, 2023

Per Court :-

1. The petitioner is the biological cousin brother of Amey Ramdas Palekar. The father of the present petitioner (Shubham) and his two biological sisters (Pradnya and Pranita), namely, Baburao Sopanrao Palekar is the biological brother of Anil Sopanrao Palekar, Sunil Sopanrao Palekar, Bajrang Sopanrao Palekar and Ramdas Sopanrao Palekar. Rutuja, daughter of Bajrang, has been granted the validity certificate in Writ Petition No.8703/2019 by this Court. Amey suffered invalidation along with the present petitioner by the common

order dated 18.10.2022. Amey filed Writ Petition No.11078/2022 and by the judgment dated 29.11.2022, this Court granted the validity certificate to Amey in the light of the conclusions recorded in paragraphs 3 to 14, which read as under :-

- “3. We have perused the family tree placed on record by the first biological cousin sister of the petitioner, namely, Rutuja Bajrang Golmallu, who has been granted a validity certificate by this Court vide order dated 18.07.2019 delivered in Writ Petition No.8703/2019. The family tree indicates that the father of the petitioner has also been granted a validity certificate by this Court vide judgment dated 31.01.1994 delivered in Writ Petition No.3962/1993. It was concluded that the basic principle of consanguinity is that two biological brothers cannot belong to different castes. If one is granted validity and the said issue is not reopened or re-visited leading to the cancellation of validity, the brother needs to be granted a validity certificate. It was recorded that three brothers and two sisters belong to the ‘Mannervarlu’ Scheduled Tribe category. The Scrutiny Committee considered an impossible situation and reached an erroneous conclusion.
4. On perusing the family tree, besides the father of the petitioner, namely, Dr. Ramdas Sopanrao Palekar, her cousin sister – Rutuja Bajrang Golmallu and biological brothers of her father, namely, Bajrang Sopanrao, Sunil Sopanrao and Anil Sopanrao, have been granted the validity certificate. We are of the view that the law laid down by the Hon’ble Supreme Court in *Raju Ramsingh Vasave Vs Mahesh Deorao Bhivapurkar & Others*, 2008 (9) SCC 54 and the judgment delivered by this Court in *Apporva Vinay Nichale Vs. Divisional Caste*

Certificate Scrutiny Committee No.1 and others, 2010 (6) Mh. L.J. 401, can be made applicable in this case.

5. *The learned AGP has strenuously canvassed that when Rutuja Bajrang Golmallu was granted validity certificate by the order of this Court, one invalidation in the family, namely, Pranita Baburao Palekar, was suppressed. He draws our attention to the family tree to indicate that because Pranita Baburao Palekar was refused validity, the petitioner has deleted that branch of the family member from the family tree. Subsequent to Rutuja Bajrang Golmallu getting a validity, Satyabhama Gopal and Gopal Laxman, who are cousin sister and the cousin uncle of the petitioner, also suffered invalidation. These two names are also deleted from the family tree by the petitioner. The learned AGP, therefore, submits that the peculiarity in a fraud being committed before the Court by a litigant is that all those blood relatives whose claims are invalidated, are deleted from the family tree and disowned by the claimant, inasmuch as, those whose claims are validated, even if they are long distant relatives, are included in the family tree to claim close proximity in relationship between the claimant and such persons.*
6. *In our experience of dealing with the cases of caste and tribe claims, we have also come across several cases, wherein, the claimants, systematically and for self serving purposes, delete the names of those relatives, whose claims have been invalidated and do not reflect such persons in the family tree. To strengthen their case, long distant relatives, whose relations at times are not established by the claimants before the Committee, are shown as close relatives in the family tree. As such, in these circumstances, if a validity is to be granted to such a candidate, based on several*

validity holders amongst the blood relatives, it would be appropriate to rely upon the view expressed by this Court in the judgment dated 27.07.2018 delivered in Writ Petition No.5611/2018, filed by the Shweta Balaji Isankar Vs. the State of Maharashtra and Others.

7. *In Shweta's case (Supra), this Court drew a conclusion in Paragraph Nos. 3 & 4 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.”

8. It was pointed out to this Court in Shweta’s case (Supra), that the validity granted to the uncle of Shweta, namely, Govind Sambhaji Isankar, has been re-opened. This Court concluded that the Committee could proceed against Govind by re-opening his case and if Govind’s claim is invalidated, the consequences suffered by Govind would befall upon Shweta. Paragraph No.8 of the order, in Shweta’s case (Supra), reads 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.”

9. In the instant case, there are five validity holders amongst the blood relatives of the petitioner and two close blood relatives, whose identity has been suppressed by the petitioner, have suffered adverse orders of the invalidation.
10. This petition is, therefore, partly allowed. The impugned order dated 18.10.2022 is quashed

and set aside.

11. *Since the petitioner has to tender the validity certificate upto 5:30 pm today at Government College, Gondia, that we direct the Committee to issue the Mannervarlu' Schedule Tribe validity certificate, upto 4:00 pm today.*
12. *Since Mr. Narwardkar, the learned Advocate appears on behalf of respondent No.3, we direct that the petitioner may be given time till 5:00 pm on 30.11.2022. The petitioner would forward the caste validity certificate as an attachment to an email, which the petitioner would send to the College as well as respondent no.3 – Competent Authority today itself.*
13. *Needless to state, since this order is dictated in open Court and may not be uploaded immediately, the parties shall act in view of the directions issued in this order dictated in the open Court.*
14. *Akin to the view taken in Shweta's case (Supra), if the Competent Authority, after re-opening any of the validity files of the close relatives of the petitioner, reach a conclusion of cancellation of the validity, the consequences of such decision would befall upon the present petitioner and the Committee would then be at liberty to reconsider the case of the petitioner, notwithstanding that this order is passed by this Court, which is a conditional order in the light of the law laid down in Shweta's case (Supra)."*

2. Considering the above, it is apparent that two biological sisters, three biological uncles, namely, Anil, Sunil and Bajrang and two biological cousins, namely, Rutuja Bajrang and Ameya Ramdas, have been granted the validity certificates. We,

therefore, do not find any reason to take a different view than the one that has been taken by us in the case of *Amey (supra)*.

3. This Writ Petition is, therefore, partly allowed as under :-

(a) The impugned order dated 18.10.2022 is quashed and set aside.

(b) Let the “Mannervarlu”, Scheduled Tribe, validity certificate be issued to the petitioner, on or before 25.01.2023.

(c) Needless to state, if the competent authority, after reopening any of the validity holder’s file who is a close relative of the petitioner, reaches to the conclusion of cancellation of his validity certificate, the consequence of such decision as would affect the said candidate, would also befall upon the present petitioner and the competent committee would be at liberty to reconsider the case of the petitioner in view of this conditional order and in the light of *Shweta Isankar (supra)*.

kps

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE, J.)