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

WRIT PETITION NO.298 OF 2023

**PALLAVI RAOSAHEB PUPPALWAD
VERSUS
THE STATE OF MAHARASHTRA, THR. IT'S SECRETARY,
AND OTHERS**

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Mr R. K. Mendadkar, Advocate h/f Mr P. V. Jadhavar, Advocate
for petitioner;

Mr S. G. Sangle, A.G.P. for respondent Nos.1 & 2/State

Mr R. R. Bangar, Advocate h/f Mr M. D. Narwadkar, Advocate
for respondent No.3

Mr S. B. Pulkundwar, Advocate for respondent No.4

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

DATE : 7th January, 2023

PER COURT:

1. This petition has been registered in this Court today. A motion was moved at 10.30 a.m., expressing a grave urgency.

We, therefore, granted circulation on the production board.

2. The petitioner is a 25 years old student, who is now said to be selected for the Post Graduate Degree Course in 'Ayurveda' in the academic year 2022-23. She is aggrieved by the order of the Competent Committee, rejecting her claim of belonging to the

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‘Mannervarlu – Scheduled Tribe Category, vide the impugned order dated 25/11/2022.

3. We record our appreciation for the efforts taken by the learned A.G.P. representing respondent Nos.1 and 2 in this matter, in taking urgent instructions from the Competent Committee and being ready at 2.30 p.m.

4. Having considered the strenuous submissions of the learned Advocates for the respective sides, our attention is drawn to the observations of the Committee in the impugned order, pertaining to the conduct of the father of the petitioner. Before we advert to the said observations, we deem it appropriate to refer to the family tree produced before us by the petitioner, which is a part of the written submissions tendered by the petitioner before the Competent Committee, as under :-

- (a) The father of the petitioner is Raosaheb s/o Shriram. He has been granted validity certificate.
- (b) His biological sister Anita d/o Shriram has also been granted a validity certificate.

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(c) Raosaheb's grandfather Ramji Parasram is the biological brother of Maroti Parasram, Laxman Parasram and Vyankati Parasram.

(d) Vyankati's two grand children, namely, Vyankati Shankar and Balaji Shankar have been granted validity certificates.

(e) Ramji's grand children, namely, Ashok Anandrao and Dnyaneshwar Anandrao, have granted validity certificates.

(f) Maroti's grandson Omprakash Madhav has also been granted validity certificate.

(g) Laxman's grandson Pandurang, has also been granted validity certificate.

(h) Vyankati, Ramji, Maroti and Laxman are biological brothers.

(I) Shankar, Anandrao, Shriram, Madhav and Sambhaji are cousin brothers.

As such, there are 8 validity holders in the family tree of the petitioner.

5. The learned A.G.P. representing the Committee has strenuously opposed this petition by contending that several

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validity certificate holders have based their claims on such documents, which were found to be interpolated / manufactured. These discoveries have occurred while dealing with the case of the present petitioner. He submits that the father of the present petitioner has produced the record of his great grandfather pertaining to his school education. The record of the school appears to be prior to the school coming into existence. He, therefore, submits that a notice for reopening of the case of the father of the petitioner would be issued shortly and all suspected validity holders would also be issued with notices for reopening their cases. He, therefore, submits that this is one case, in which, though the petitioner has 8 validity holders amongst her paternal relatives, a conditional validity may not be granted.

6. This Court has dealt with a similar situation 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 and 8, 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

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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

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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. 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.”

7. We are, therefore, of the view that the petitioner need not be deprived from receiving a validity certificate in the light of the law laid down by 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.**

8. There are 8 validity certificate holders from the paternal side of the petitioner. At the same time, to ensure that no equities are unduly created in favour of the petitioner, we deem it appropriate to rely upon the conclusions drawn by this Court in Shweta Balaji Isankar (supra), thereby placing the petitioner under an embargo that, if any of the family holders from her paternal sides, including her father, suffer invalidation after reopening of their cases, the consequences that would be suffered by such candidates, would also befall upon the present petitioner. In short, if the validity certificate of the petitioner's father or closest blood relatives is cancelled and the claim is invalidated, the Competent Authority would be justified in reopening the case of the present petitioner, who would suffer the same consequences.

9. As such, this petition is partly allowed with the following directions :-

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(a) The impugned order dated 25/11/2022, passed by respondent No.2/ Committee, is quashed and set aside.

(b) The Competent Committee shall issue a validity certificate to the petitioner by 1.00 p.m. on Monday, i.e. on 09/01/2023.

(c) The petitioner, along with her father, would collect the certificate from the office of the Competent Committee at Aurangabad, and after scanning the said certificate, would resort to the procedure of uploading the same, as is prescribed in view of the submissions of the learned Advocate representing respondent No.3/Competent Authority/ State CET Cell. The time for uploading the documents is 11.59 p.m. on 09/01/2023.

(d) Applying the law laid down in Shweta Balaji Isankar (supra), if the validity of the petitioner's father or the closest relatives as indicated in the family tree, is/are invalidated, the petitioner would suffer the same consequences.

10. Needless to state, the petitioner then would also be liable to suffer consequences in the light of the judgment delivered by the Hon'ble Supreme Court in **Chairman and Managing Director, Food Corporation of India and others Vs. Jagdish Balaram**

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Bahira and others, (2017) 8 SCC 670 and would also be liable to pay the full fees of her education, since she has been acquiring education on the basis of her claim of belonging to Scheduled Tribe Category through reimbursement of fees.

(SANJAY A. DESHMUKH, J.) (RAVINDRA V. GHUGE, J.)

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