

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

WRIT PETITION NO.1351 OF 2022

Shivani Govindrao Marakwad
VERSUS
The State Of Maharashtra And Others

**AND
WRIT PETITION NO.1255 OF 2022**

Govind Ramrao Marakwad
VERSUS
The State Of Maharashtra And Others

**AND
WRIT PETITION NO.1242 OF 2022**

Tanaji Ramrao Marakwad
VERSUS
The State Of Maharashtra And Others

**AND
WRIT PETITION NO.1357 OF 2022**

Shital Govindrao Marakwad
VERSUS
The State Of Maharashtra And Others

**AND
WRIT PETITION NO.10889 OF 2021**

Omprakash Shivaji Marakwad
VERSUS
The State Of Maharashtra And Others

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Mr.Sunil M. Vibhute, Advocate for the Petitioners.
Mr.S.K. Tambe, A.G.P. for the Respondents/State Authorities.
Shri Dhananjay Deshpande, Advocate for Respondent 5 in WP
1357/2022.
Shri S.S. Gangakhedkar, Advocate for Respondent 5 in WP
1351/2022.

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

DATE :- 13th April, 2023

Per Court :-

1. All these Petitioners were before the competent Scrutiny Committee at Aurangabad with their respective proposals for seeking validation of their claim of belonging to “Mannervarlu”, Scheduled Tribe category. By the impugned order dated 15.12.2021, which is a common order, the Petitioners in Writ Petition Nos.1351/2022, 1255/2022, 1242/2022 and 1357/2022 along with Mahesh Tanaji Marakwad, suffered rejection of their claims on the ground of contra entries. The Petitioner (Omprakash Shivaji Marakwad) in Writ Petition No.10889/2021, suffered invalidation by the order dated 16.08.2021.

2. The first person before the Committee in the

common order dated 15.10.2021, namely, Mahesh Tanaji Marakwad approached this Court in Writ Petition No.1277/2022. This Court recorded that his biological sister, namely, Manisha has also suffered invalidation and she was before this Court in Writ Petition No.9968/2018. By order dated 30.08.2018, this Court validated the claim of Manisha. As this was brought to the notice of this Court in the case of Mahesh (supra), this Court delivered a short order dated 25.01.2022 and has accepted the claim of Mahesh. He was granted a validity certificate for Mannervarlu, Scheduled Tribe.

3. Copy of the affidavit tendered by Ramrao Mashnaji Marakwad dated 30.07.2013, indicates an extensive family tree. The Petitioners before this Court are Shivani Govind, Govind Ramrao, Tanaji Ramrao, Shital Govind and Omprakash Shivaji. Shivani and Shital are the daughters of Govindrao. Govindrao is the biological brother of Pandurang, Shivaji, Tanaji and Laxmibao. Their father is Ramrao son of Mashnaji, who had two biological brothers, namely, Santuka and Vitthal.

4. Manisha and Mahesh have been granted the validity certificates by the High Court. Laxmibai, who is the biological sister of Tanaji, Govind, Shivaji and Pandurang, is granted the

validity certificate. Two daughters (Parvati and Saraswati) and son (Satyavan) of Pandurang son of Ramrao, have been granted the validity certificates by the Committee. Similarly, Kailas, who is the biological brother of the Petitioner (Omprakash) and son of Shivaji, has also been granted the validity certificate. All these descendants are from the branch of Ramrao.

5. From the branch of Santuka son of Mashnaji and biological brother of Ramrao, we find that Bharti, Jyoti and Dipak, who are children of Hanmant and grandchildren of Santuka, are also granted the validity certificates. Shevanta and Malti, who are daughters of Nivrutti, who is the biological brother of Hanmant and son of Santuka, have been granted the validity certificates. Sujata and Keval, who are children of Laxman, biological brother of Hanmant and Nivrutti and son of Santuka, have also been granted the validity certificates.

6. As such, there are 12 validity certificates granted by the Committee in the family tree originating from the branch of Mashnaji and two validity certificates are granted by the High Court.

7. The learned AGP representing the Committee has strenuously defended the impugned orders contending that there

are contra entries and in some cases, validated claims have been reopened for re-scrutiny.

8. The contention of the learned AGP can be met with an answer from the judgment delivered in ***Shweta Balaji Isankar vs. The State of Maharashtra and others***, Writ Petition No.5611/2018 decided on 27.07.2018, wherein, this Court at the Principal Seat, has observed in paragraphs 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 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.”*

- “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 view of the above, **all these Writ Petitions are partly allowed.** The common order dated 15.12.2021, which has already been set aside in the case of Mahesh (supra) and the

impugned order dated 16.08.2021 in the case of the Petitioner (Omprakash), are quashed and set aside. The Scrutiny Committee shall issue the validity certificates of “Mannervarlu”, Scheduled Tribe, to these Petitioners within THIRTY days from today.

10. Needless to state, in the event, any of the validity holders on whom these Petitioners have placed reliance, suffers invalidation after reopening of cases, consequences suffered by the said candidate would also befall upon these Petitioners, who would be subjected to reopening of their cases.

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(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE, J.)