

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1456 OF 2022

Kalyani Radhakishan Jadhav

...Petitioner

VERSUS

1] The State of Maharashtra
Department of Tribal Development
Mantralaya, Mumbai – 32
Through its Secretary

2] The Scheduled Tribe Certificate
Scrutiny Committee, Aurangabad
Division, Aurangabad
Through its Member Secretary

3] Shivchhatrapati College,
CIDCO, N-3, Aurangabad
Tq. & Dist. Aurangabad
Through its Principal

4] Dr. Babasaheb Ambedkar Marathwada
University, Aurangabad
Tq. & Dist. Aurangabad
Through its Registrar

...Respondents

WITH
WRIT PETITION NO. 1457 OF 2022

Vaishnavi D/o Balaji Thakur

...Petitioner

VERSUS

1] The State of Maharashtra
Department of Tribal Development,
Mantralaya, Mumbai – 32
Through its Secretary

2] The Scheduled Tribe Certificate
Scrutiny Committee, Aurangabad
Division, Aurangabad
Through its Member Secretary

3] Walchand College of Engineering,
Vishrambaug, Sangli – 416 415,
Tq. & Dist. Sangli,
Through its Principal

4] Shivaji University,
Vidya Nagar, Kolhapur,
Tq. & Dist. Kolhapur,
Through its Registrar

...Respondents

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Advocate for Petitioner in both petitions : Mr. Sushant C. Yeramwar
AGP for Respondents/State : Mr. A.S. Shinde
Advocate for Respondent No.4 in WP-1456/2022 : Mr. K.M. Suryawanshi

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**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 28 AUGUST 2023

ORDER (MANGESH S. PATIL, J.) :

The petitioners are challenging the invalidation at the hands of the respondent scrutiny committee which has directed confiscation and cancellation of their tribe certificates of Thakur scheduled tribe.

2. Considering the exigency inasmuch as one of the petitioners is seeking admission to professional course for the current academic year and is supposed to file the documents by tomorrow i.e. 29 August 2023, the matters are taken up finally for adjudication at admission stage.

3. The impugned order is a common order passed in respect of both these writ petitioners. Obviously, even the committee treats them to be related by blood from paternal side and treated them as such and considered their proposals for validation. Even vigilance enquiry has been conducted jointly.

4. As can be noticed, there is no dispute about the genealogy. One Babaji Devram Jadhav is the great great grandfather who was having son Shidram. Tukaram is the son of that Sidram. Petitioner's grandfather Shivaji is son of that Tukaram. Petitioner Kalyani's father Radhakishan holds a certificate of validity. Even her two siblings, brother Vivek and sister Vrushali are holders of certificates of validity. Vaishnavi seems to be related to Kalyani from the paternal side. She is stated to be the great grand child of Sidram's brother and consequently would be entitled to derive the benefit of the validities in the family.

5. The committee has refused to extend benefit of such validities on the ground that Radhakishan had obtained certificate of validity by concealing several contrary record and the committee has now decided to re-open it. The committee has then observed that it was issued by the committee headed by one Mr. V.S. Patil.

6. The committee has thereafter questioned the composition of the then committee which decided the matter of one of the validity holders. In our considered view, a successor committee cannot question such composition more so when according to rule 9(3), the decision of the committee which comprises of three members can be by majority. In that matter, there was no dispute about the eligibility of the other two members and consequently, this ground will not be sustainable.

7. The committee has surprisingly observed that since claim of one Mohan Govindrao Jadhav has been invalidated, the petitioners are not entitled to derive the benefit of the validities in the family even when Mohan's claim was invalidated in the year 2007 and Radhakishan was granted certificate of validity in the year 2001. Besides, as is pointed out by the learned advocate, Mohan has already challenged the invalidation and that writ petition is pending in this Court.

8. We do not intend to make any comment on the aspect of the powers of the committee to undertake a review and the facts which according to the committee constitute fraud or misrepresentation. We are doing so for two reasons; firstly the validity holders are not before us and we do not intend to cause any prejudice to them by making observations in this matter behind their back and secondly, any

observation made by us could have a bearing on the matters which the committee has decided to re-open.

9. In the circumstances, when the petitioners are ready to run the risk of facing the consequences as contemplated in the matter of ***Shweta Balaji Isankar Vs. State of Maharashtra and others (writ petition no. 6320 of 2017)***, they deserve to be granted certificates of validity subject to the final outcome of the matters which the committee now has decided to re-open.

10. In the result, the following order:-

- (i) The writ petitions are partly allowed.
- (ii) The impugned order dated 15.12.2021 passed by the Scrutiny Committee is quashed and set aside. The Scrutiny Committee shall immediately issue tribe validity certificates to the petitioners as belonging to 'Thakur' scheduled tribe.
- (iii) It shall be subject to the decision/outcome in the matters to be reopened by the Committee of the validity holders.
- (iv) The certificates of validity shall be issued in the prescribed format without incorporating other conditions/additions.
- (v) Considering the fact that tomorrow is the last date for submitting certificate of validity and since the matter is being heard and

decided urgently, we request the learned AGP to communicate this order to the Committee immediately, since the law officer of the Committee is present in this Court.

(vi) The petitioners shall not be entitled to claim equities.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

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