

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

908 WRIT PETITION NO.1507 OF 2023

1. Amit s/o Pradip Deore
Age 25 years, Occ. Student,
R/o. Plot NO 467/6, N-3, CIDCO,
Shri Samarth Apartment,
Near Ketaki Hospital
Aurangabad
Tq. and District Aurangabad
 2. Sumit s/o Pradip Deore
Age 28 years, Occ. Student
R/o. As above
- ...Petitioners

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
Tq. and Dist. Aurangabad
Through its Member Secretary
 3. AISSMS College of Engineering,
No.1, Kennedy Road, Near RTO
Office Sangamvadi, Shivajinagar,
Pune 411 001
Tq and District Pune
Through its principal
 4. Savitribai Phule Pune University,
Ganeshkhind Road, Ganeshkhind,
Pune 411 007
Tq. and District Pune
Through its Registrar
- ...Respondents

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Advocate for Petitioners : Mr. Sushant C. Yeramwar
AGP for Respondent Nos. 1 and 2: Mr. S.G. Karlekar
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**CORAM : RAVINDRA V. GHUGE AND
SANJAY A. DESHMUKH, JJ.
DATED : 23rd FEBRUARY, 2023.**

ORAL JUDGMENT (PER RAVINDRA V. GHUGE, J.) :-

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.
2. The petitioners are siblings. They are aggrieved by the rejection of their Thakur S.T. claim vide the common order dated 30.12.2022. Both the petitioners are taking education.
3. Having considered the strenuous submissions of the learned advocates for the respective sides, we have perused the file pertaining to Kalavati Dadabhau Deore, who is said to be a biological sister of the father of these two petitioners, viz. Pradip Dadabhau Deore. The learned A.G.P. has drawn our attention to the impugned judgment to point out that Kalavati had never mentioned Pradip as her brother in her claim for validity. Kalavati was in employment as a teacher and she passed away around three years ago due to terminal illness. She had secured validity on the basis of the validity secured by a cousin brother viz. Ganpat s/o Jagannath Deore. The father of Kalavati and grandfather of these two petitioners, viz. Dadabhau

Tikaram Deore was the grandson of Bhika Bhila Deore. Ganpat Jagannath Deore was a grandson of Pandit Ganpat Deore. That Ganpat Deore was a biological brother of Bhika Deore and therefore, Pandit and Tikaram became first cousins and Dadabhau Tikaram and Jagannath Pandit became second cousins. Hence, the son of Jagannath viz. Ganpat Deore became a distant cousin brother of Kalavati d/o Dadabhau Deore.

4. There are 17 validity holders amongst the paternal relatives of these two petitioners. Ganpat Jagannath's biological brother Suresh Jagannath also received a validity certificate. Daughter and son of Kailas Jagannath, the biological brother of Ganpat and Suresh, viz. Deepali and Virendra, also got validity certificates. From the branch of Bhika Deore, the cousin brother of Kalavati viz. Rajendra s/o Bhagwan, who is the biological brother of Dadabhau, has been granted validity certificate. Rajendra's two children viz. Pratiksha and Neeraj have also received validity certificates. From the branch of Ganpat Deore, who happened to be cousin great grandfather of Kalavati, several validity holders are noticed. In all, this entire clan now has 17 validity holders. Four amongst them have been granted validity certificates by the High Court and one such order has been confirmed by the Hon'ble Supreme Court.

5. The learned A.G.P. is well placed in submitting that in the

affidavit of Kalavati in her own case, despite being a teacher, the name of Pradip i.e. the petitioners' father is not shown as a biological brother. A cousin brother Ganpat Deore, his father Jagannath Deore and his great grandfather Ganpat Deore (similar first name), are mentioned by Kalavati. The signature of Kalavati appearing on the affidavit in her case is different the one appearing on the affidavit that she has purportedly tendered in the case of Pradip (father of these petitioners). Even by the naked eyes, it appears that the signature of Kalavati on the affidavit of Pradip's case is completely different as compared to the affidavit in her own case. Things became more complex when her affidavit, placed before us, dated 30.08.2014, also carries a different signature.

6. Unfortunately, these facets pointed out by the learned A.G.P. before us were not even noticed by the committee when it has delivered the impugned order. Even if these three affidavits are compared as regards to the names of the persons appearing in the family trees therein, three names viz. Pradip (father of the petitioners), Sanjay and Sunanda, as siblings of Kalavati, are not mentioned by Kalavati in her own case. In the case of Pradip, for the first time, Kalavati declared him to be her biological brother in which the other names i.e. Sanjay, Sunanda and Sangeeta are mentioned. In the affidavit in her own case, even the name of Sangeeta as her biological sister is missing. Ashok Dadabhau Deore, who is shown by Kalavati as her biological brother, is missing from the subsequent

affidavits of Kalavati filed in the case of Pradip and in the present case. However, the committee has not drawn a conclusion that Pradip is not the brother of Kalavati or that, Sanjay, Sunanda and Sangeeta are also not her biological brother/sisters.

7. One who pleads, has to prove, is the golden rule under the Evidence Act, save and except in peculiar circumstances. Section 8 of The Maharashtra Scheduled Castes, Scheduled Tribes, De-Notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000, casts burden on the claimant. The father of the present petitioners as well as these petitioners have produced the school record of Kalavati to indicate that the father of Kalavati and the father of Pradip is one and the same. There is no evidence either before the committee or before us to establish that Pradip or Sanjay or Sunanda would not be siblings of Kalavati. Pradip's school record indicates that his father is Dadabhau, who happens to be father of Kalavati.

8. The learned A.G.P. submits that there is material which would indicate that the case of Pradip deserves to be reopened since he was never disclosed to be a biological brother of Kalavati. Only when Pradip applied for validation, that he presented a family tree indicating Kalavati as his biological sister and he drew support from the affidavit filed by Kalavati in his case, which signature of Kalavati is

apparently different and the difference is visible to the naked eye, while comparing it with her signature in her affidavit in her own case. We, therefore, find sufficient circumstances to enable the committee to reopen the case of Pradip.

9. However, the issue that bothers us is as to whether we would come to the conclusion to defer the decision in the cases of these petitioners in the midst of their professional education in the engineering course and the P.G. course. In such circumstances, we deem it appropriate to rely upon the judgment delivered by this Court (Coram : S. C. Dharmadhikari and Smt. Bharati H. Dangre, JJ.), at the Principal Seat, in **WP No.5611/2018 (Shweta Balaji Isankar Vs. State of Maharashtra and Others)**, wherein the case of a relative, whose validity was cited by Shweta in support of her claim, was reopened as contra entries and contradictory evidence was noticed. This court permitted the committee to proceed with the reopened case and held that if the claim of the said candidate resulted into invalidation, Shweta would also suffer same consequences.

10. It would be apposite to reproduce paragraphs 2 to 4 and 8 in **Shweta Balaji Isankar** (supra), hereunder:-

"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 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."*

11. In view of the above and considering the law laid down by this Court in ***Apoorva d/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee, 2010 (6) Mh.L.J. 401***, this petition is partly allowed. The impugned order is quashed and set aside with the following directions:-

- a) The cases of Pradip and Ashok need not be reopened by the committee as both have already passed away.
- b) Any further claim from any of the children or blood relatives of Ashok Dadabhau Deore, Deelip Dadabhau, Pradip Dadabhau, Sanjay Dadabhau, Sunanda

Dadabhau and Sangeeta Dadabhau, etc. shall be scrutinized independently and scrupulously by the committee and we also direct whoever these candidates may be, would have to establish their blood relations with Kalavati Dadabhau Deore.

- c) Since we cannot permit the reopening of the cases of Pradip and Ashok, the validity certificates granted to Pradip and Ashok, shall not be relied upon by any of blood relatives on the paternal side.
- d) In the event of reopening of case of any such candidate whose validity is relied upon by the present Petitioners, and he/she suffers invalidation, the consequences flowing from such invalidation, would also impact the claim of the present petitioners and the committee would be at liberty to reopen their cases.
- e) On the above conditions, the competent committee shall issue Thakur S.T. certificates to these two petitioners, on or before 15.03.2023.

12. Rule is made partly absolute in the above terms.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE , J.)

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