

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

931 WRIT PETITION NO.1262 OF 2023

OM S/O RAMESH ANANTWAR
VERSUS
THE STATE OF MAHARASHTRA,
THROUGH ITS SECRETARY AND OTHERS

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Advocate for Petitioner : Mr. Sunil M. Vibhute.

AGP for Respondent Nos.1 & 2: Mr. S. K. Tambe.

Advocate for Respondent No.3 : Mr. M. D. Narwadkar.

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

DATE : 01st February, 2023.

Per Court:

1. The petitioner is an 18 years old student. He has been selected from the Scheduled Tribe category to join the BAMS course. Having suffered invalidation of his Mannervarlu Scheduled Tribe claim, the petitioner has put forth prayer clauses 'B' to 'D' as under:-

"B) The impugned Judgment and order dated 23/01/2023 passed by the respondent no. 2 committee, invalidating the Tribe Claim of the petitioner of Mannervarlu Schedule Tribe, may kindly be quashed and set aside and respondent No. 2 committee may kindly be directed to issue Tribe Validity Certificate of Mannervarlu Tribe to the petitioner.

C) Pending hearing and final disposal of this petition, the impugned Judgment and order dated 23/01/2023 passed by the respondent no. 2 committee, invalidating

the Tribe Claim of the petitioner of Mannervarlu Schedule Tribe, may kindly be stayed.

- D) The respondent no. 3 may kindly be directed to consider the petitioner from Schedule Tribe category in entire admission process of NEET-UG-2022 without insisting for Tribe Validity Certificate of the petitioner, subject to the adjudication of Tribe Claim of the petitioner by this Hon'ble Court in this petition."

2. We have considered the strenuous submissions of the learned advocate for the petitioner and the learned AGP. With their assistance, we have perused the petitioner paper-book.

3. The family tree tendered by the petitioner alongwith his affidavit before the Scrutiny Committee, indicates that the father of the present petitioner has been granted validity by the committee. The biological elder brother of the petitioner, namely Jay Ramesh Anantwar, has been granted a validity certificate by this Court, purely relying upon ***Apoorva d/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee, 2010 (6) Mh.L.J. 401.***

4. The learned AGP strenuously submits that when the claim of the father of the petitioner was being considered, the vigilance cell referred to the school record of the father and the paternal aunt. The vigilance cell that time lost sight of the interpolation, which was noticed

by the vigilance cell in the present case. Such interpolation was also noticed by the vigilance cell even when the brother of the present petitioner, namely Jay Ramesh Anantwar was before this Court in Writ Petition No.703 of 2021, which has been allowed by a short order dated 15th January, 2021, relying upon ***Apoorva d/o Vinay Nichale*** (supra).

5. The learned AGP further submits that the case of the petitioner's father has been reopened and the next date of hearing is scheduled on 15th February, 2023. There is every possibility that the re-opened case may lead the committee to a different decision. He further points out that this Court, vide order dated 15th January, 2021, passed in the case of Jay Ramesh Anantwar (supra), has recorded that the validity certificate being granted to Jay Ramesh Anantwar will be subject to the decision of the committee, if the case of his father Ramesh is reopened.

6. A similar fact situation was considered by this Court at the Principal Seat in ***Writ Petition No.5611 of 2018 (Shweta Balaji Isankar Vs. State of Maharashtra and ors)***. It was observed 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 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."

7. Considering the above and especially the observations of this Court in ***Shweta Balaji Isankar*** (supra), this petition is partly allowed. The impugned order of the committee dated 23rd January,

2023 is quashed and set aside. The competent authority would issue the “Mannervarlu” Scheduled Tribe validity certificate to the petitioner upto 05:00 pm today, since the father of the petitioner will have to upload a scanned copy of the said certificate on the website of the allotted college and produce the validity certificate in physical form by tomorrow.

8. Needless to state, considering the law laid down by this Court in ***Shweta Balaji Isankar*** (supra), if the claim of the father and/or brother of the petitioner, is/are invalidated, after reopening of the cases, the consequences of invalidation being suffered by the father/brother, would befall upon the present petitioner.

[SANJAY A. DESHMUKH, J.]

[RAVINDRA V. GHUGE, J.]

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