

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

WRIT PETITION NO. 2071 OF 2020

Sangameshwar s/o Sambhajirao Pallewad,
Age 20 years, Occ. Student,
R/o. At Telangwadi, Tq. Kandhar,
District Nanded

... **Petitioner**

VERSUS

- 1) The State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya Mumbai-32.
- 2) Deputy Director (Research)
and Member Secretary,
Scheduled Tribe Certificate
Verification Committee,
Near Saint Lawrence High School
Town Centre, CIDCO, Aurangabad,
District Aurangabad.
- 3) Vasantrao Naik Marathwada Agricultural
University, Parbhani, through its
Registrar.
- 4) Chhatrapati Shahu Maharaj Shikshan
Sanstha, Agricultural College,
Kanchanwadi, Aurangabad,
Through its Principal

... **Respondents**

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Advocate for the Petitioner : Mr. Chandrakant R. Thorat
A.G.P for the respondents/State : Mr. S. G. Sangale
Advocate for the Respondent No. 3 : Mr. S.P. Kausalye

AND

WRIT PETITION NO. 2104 OF 2020

Smita s/o Sambhajirao Pallewad,
Age 18 years, Occ. Student,
R/o. At Telangwadi, Tq. Kandhar,
Dist. Nanded.

... **Petitioner**

VERSUS

- 1) The State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya Mumbai-32.
- 2) Deputy Director (Research)
and Member Secretary,
Scheduled Tribe Certificate
Verification Committee,
Near Saint Lawrence High School
Town Centre, CIDCO, Aurangabad,
District Aurangabad.

... Respondents

...

Advocate for the Petitioner : Mr. Chandrakant R. Thorat
A.G.P for the respondent Nos. 1 & 2/State : Mr. S. G. Sangale

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

DATE : **27.09.2023**

PER COURT :

The petitioners in both these petitions are siblings and by way of separate writ petitions they are challenging the common order passed by the respondent-scrutiny committee invalidating their claims of belonging to 'Mannervarlu' scheduled tribe.

2. We have heard both the sides finally at the stage of admission.

3. The learned advocate for the petitioners submits that the petitioners' several cousins possess certificates of validity though the committee has refused to extend the benefit of these validities, the reasons assigned by it are not sustainable in law. The fact remains that the certificates of validity have been issued from time to time to petitioners' cousins right from the year 2003 up to 2011. Even if the committee for the reasons mentioned in

the order under challenge has decided to reopen the enquiries in respect of these validity holders, so long as the validity certificates are not confiscated and cancelled, the petitioners cannot be denied the benefit of the validities. He would submit that even if the contrary entries being relied upon by the scrutiny committee are in respect of the individuals to whom the committees have granted certificates of validity. He would submit that the petitioners are ready to face the consequences if the validity certificates issued to these individuals are confiscated and cancelled.

4. The learned advocate would further submit that the petitioners' cousin Raosaheb Anandrao Pallewad's claim was also invalidated by the scrutiny committee in the year 2006. The order was challenged before this Court in Writ Petition No. 5272/2006. By the order dated 28.07.2006 the matter was remanded to the scrutiny committee for decision afresh. Subsequently, the committee conducted fresh hearing and by the order dated 29.12.2006 granted certificate of validity to him. He would submit that the committee cannot now take exception to the certificate of validity granted to Raosaheb and independent of any other reason this fact itself is sufficient to grant certificate of validity to the petitioners.

5. The learned A.G.P. supports the order. He submits that all the certificates of validity have been obtained by concealing contrary record. With strenuous efforts the committee by resorting to vigilance enquiry could collect such contrary record which has been pitted against the petitioners to discard their claim. The learned A.G.P. would further submit that in fact there were couple of decisions at the earlier point of time in the year 1994 and 1996 in respect of the petitioners' first degree cousins Sanjivani Gangadhar Pallewad, Sunil Gangadhar Pallewad and one Vishwambhar Arjunrao Pallewad whose claim was also invalidated on 24.02.2005. These invalidities were not disclosed to the committee and the validity certificates were obtained by other blood relatives. He would also point out that in fact in spite of earlier rejection of the claim Vishwambhar could manage to put

up a fresh proposal and was granted a certificate of validity which is nothing but abuse of the process of law.

6. The learned A.G.P. would submit that the committee has elaborately discussed and demonstrated as to how all these validity certificates obtained by resorting to fraud and has decided to undertake a fresh scrutiny of their claim which it is entitled to do.

7. We have considered the rival submissions and perused the record. Admittedly, several of the petitioners' first degree cousins possess certificates of validity. Though the committee has given detailed reasons as to why it was not inclined to extend the benefit of these validities to the petitioners, the common thread across all these observations is the fact that according to the committee all these validity holders had obtained the certificates of validity by resorting to fraud. Indeed, fraud vitiates everything. However, whether the facts and circumstances referred to by the committee would in fact constitute fraud is a matter which we feel cannot be commented upon at this juncture. When the validity holders are not before us. We do not intend to cause some prejudice to their interest by undertaking such a scrutiny.

8. The fact remains that the petitioners' cousins possess certificates of validity, their entitlement apart, it is not the observation of the committee that no process of law was followed when the certificates of validity directed to be issued to them. In fact, in respect of Raosaheb Anandrao Pallewad, after initial invalidation and after the matter was remanded back to the committee, the committee undertook a fresh enquiry and he was granted a certificate of validity. In the circumstances, till the time, the certificates of validity issued to the blood relatives are not confiscated and cancelled, the petitioners cannot be denied the benefit of having certificates of validity as laid down in the matter of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others; 2023 SCC Online SC 326***.

8. The Writ Petitions are partly allowed. The impugned judgment and order is quashed and set aside. The respondent-scrutiny committee shall immediately issue certificates of validity to the petitioners of 'Mannervarlu' scheduled tribe. Those shall be subject to the final outcome of the matters which the committee has decided to reopen.

9. The petitioners shall not be entitled to claim any equities.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

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