

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

WRIT PETITION NO. 2225 OF 2022

Pratik s/o Uddhav Gurle,
Age: 18 years, Occu.: Student,
R/o. At. Post. Nandkheda,
Tq. and Dist. Parbhani.

... **Petitioner**

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Medical Education Department,
Mantralaya, Mumbai-32.
2. The Commissioner & Competent Authority,
Government of Maharashtra,
State Common Entrance Test Cell,
8th Floor, New Excelsior Building,
A. K. Nayak Marg, Fort, Mumbai - 400 001.
3. Deputy Director (Research)
and Member Secretary,
Scheduled Tribe Certificate
Verification Committee, Aurangabad,
Near Saint Lawrence High School,
Town Centre, CIDCO, Aurangabad,
Dist. Aurangabad.

... **Respondents**

...
Mr. Chandrakant R. Thorat, Advocate for Petitioner.
Mr. S. K. Tambe, AGP for Respondent Nos.1 & 3.
Mr. M. D. Narwadkar, Advocate for Respondent No.2.

...

AND

CIVIL APPLICATION NO. 2351 OF 2022
IN
WRIT PETITION NO. 2225 OF 2022

Mr. Pawan Madhavrao Pote
 Age: 21 years, Occ: Student,
 Original for Rights of Tribal
 R/o. Kalamanuri, Tq & Dist. Hingoli.

... **Applicant**
 (Intervenor)

VERSUS

- 1] The State of Maharashtra,
 Through its Secretary,
 Tribal Department,
 Mantralaya, Mumbai-32.
- 2] The Scheduled Tribe Certificate Scrutiny,
 Committee, Aurangabad,
 Through its Deputy Director (R)
- 3] The Commissioner &
 Competent authority
 State CET Cell, Maharashtra State,
 Mumbai
 (Controller of Admission Process)
 8th Floor, New Exelsior Building,
 AK Marge, Fort Mumbai – 1.
- 4] Pratik Uddhav Gurle
 Age: Majors, Occ: Student,
 R/o.

... **Respondents**

...
 Mr. S. N. Lale Yelwatkar, Advocate for Applicant / Intervenor (**Absent**).
 Mr. S. K. Tambe, AGP for Respondent Nos.1 & 2.
 Mr. M. D. Narwadkar, Advocate for Respondent No.3.
 Mr. Chandrakant R. Thorat, Advocate for Respondent No.4.
 ...

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

DATE : 02nd January, 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 petitioner has put forth prayer clauses 'A' and 'B' as under:-

“A. By issuing Writ of Certiorari or any other appropriate writ or direction in the like nature, be please to quash and set aside the Judgment and Order dated 10/02/2022, passed by the Scheduled Tribe Certificate Scrutiny Committee, Aurangabad, Exhibit-A.

B. By issuing Writ of Mandamus or any other appropriate writ or direction in the like nature, be please to direct the respondent No. 3 Scheduled Tribe Certificate Scrutiny Committee, Aurangabad to issue Tribe Validity Certificate in favour of the petitioner as belonging to “Mannervarlu” Scheduled Tribe, forthwith.”

3. The learned AGP has strenuously opposed this petition on the ground that the committee has arrived at a contrary finding and has concluded that the petitioner cannot be granted a validity certificate of belonging to the “Mannervarlu” Scheduled Tribe category.

4. We have perused the family tree produced by the petitioner alongwith his affidavit tendered before the committee. There are in all 14 validity holders amongst the blood relatives of the petitioner, whose names have been set out in the family tree at page No.127-B. The learned advocate for the petitioner has tendered a chart before us, indicating the 14 validity holders and the dates on which the committee granted them the validity certificates. So also, the said chart contains the names of three biological cousin sisters, who have been granted validity certificates, after initially suffering invalidation of their claim, under the orders of this Court. The said chart is taken on record and marked as 'X-1' for identification. For ready reference, the 14 validity holders and the dates on which their claim were upheld, as well as the 3 validity holders, their writ petition numbers and the dates of the judgments of this Court, are reproduced hereunder:-

Sr No.	Caste validity certificate Holder	Date Of caste Validity Certificate
1	Uddhav Murlidhar Gurle	12/08/2008
2	Gangadhar Vishwanath Gurle	15/05/2000
3	Babasaheb Vishwanath Gurle	23/09/2008
4	Rahul Ramesh Gurle	27/01/2011
5	Bharat Manchakrao Gurle	04/04/2006
6	Balaji Manchakrao Gurle	04/04/2006
7	Ramesh Kondiba Gurle	23/03/2003

Sr No.	Caste validity certificate Holder	Date Of caste Validity Certificate
8	Swapna Ramesh Gurle	04/05/2006
9	Ashok Ganesh Gurle	04/09/2007
10	Santosh Ramkishan Gurle	15/10/2007
11	Shankar Datarao Gurle	30/04/2010
12	Bebi Mahadu Gurle	25/03/2011
13	Amol Ramesh Gurle	29/03/2011
14	Komal Rameshrao Gurle	27/07/2011
Caste validity certificate granted by the committee as per the Order of the Hon'ble High Court"		
Sr No.	Caste validity certificate holder	Order of the High Court Dated
1	Shubhangi Babasaheb Gurle	23.07.2018 WP/7520/2018 (Bombay High Court)
2	Tejaswini Ramesh Gurle	20.08.2019 WP/9076/2019 (Bombay High court)
3	Shruti Babasaheb Gurle	20/01.2022 WP/3868/2020 (Aurangabad High court)

5. Considering the above, we deem it appropriate to rely upon *Apoorva d/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee, 2010 (6) Mh.L.J. 401*, wherein this Court has concluded that when family members / biological relations have been granted validity certificates, it would be inappropriate, unless there are strong and justifying reasons, to conclude that all those who got their validity certificates, were mistakenly granted or that they had acquired the certificates fraudulently. In the instant case, 14 blood relatives, whose names are reproduced above, have been granted validity certificates in between 2000 to 2011. The 3 validity holders, who

succeeded before this Court were granted validity certificates after this Court concluded, in the light of the above mentioned judgments, that they were entitled to a declaration of belonging to the “Mannervarlu” Scheduled Tribe. If at all, the committee reopens the cases of those validity holders on whom the petitioner has placed reliance and if any of them suffers invalidation of the claim, the consequences suffered by such candidate, would also befall upon the present petitioner.

6. Paragraph Nos.2 to 4 and 8 of the order dated 27th July, 2018 passed by this Court at Principal Seat in Writ Petition No.5611 of 2018 (***Shweta Balaji Isankar Vs. State of Maharashtra and ors***), read 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, this petition is partly allowed in terms of prayer clause 'A'. The petitioner is held entitled for the "Mannervarlu" Scheduled Tribe certificate. Considering that the petitioner is likely to secure admission in a professional course, we direct respondent No.3 committee at Aurangabad to issue a validity certificate in favour of the petitioner, on or before 6th January, 2023.

8. Needless to state, in the event of the reopening of any case of the validity holders relied upon by the petitioner, the petitioner would also suffer similar consequences, in the light of paragraph No.8 of ***Shweta Balaji Isankar Vs. State of Maharashtra and ors*** (supra).

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

10. An intervention Civil Application No.2351 of 2022 has been filed by one Pawan Madhavrao Pote on 25th January, 2022. The learned advocate for the intervention applicant, was not present when this matter was first heard on 18th February, 2022. Even today, none appears.

11. As such, the pending intervention application would not survive and the same stands disposed off.

[SANJAY A. DESHMUKH, J.]

[RAVINDRA V. GHUGE J.]

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