

(1)

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

78 WRIT PETITION NO.3986 OF 2023

Kartikesh S/o. Kishanrao Gode,
Age: 20 years, Occu: Education,
R/o: Village Selu, Tehsil: Mahur,
Taluka & District : Nanded

...PETITIONER

VERSUS

1. The State of Maharashtra,
Through the Ministry of
Social Welfare Department,
Mantralaya, Mumbai-32
 2. The District Caste Certificate
Scrutiny Committee, Nanded,
Dr. Babasaheb Ambedkar Social
Justice Bhavan, 2nd Floor,
In-front of Dnyanmata High School,
Nanded, Tq. & Dist. Nanded 431601
- ...RESPONDENTS

....

Dr S. G. Nandedkar, Advocate for Petitioner;
Mr S. G. Karlekar, A.G.P. for Respondent

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

DATE : 11th April, 2023

ORAL JUDGMENT (PER : Ravindra V. Ghuge, J.)

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

(2)

2. The Petitioner is aggrieved by the judgment of the Competent Committee, dated 10/11/2022, invalidating his claim that he belongs to the 'Kunbi' Other Backward Classes. The contention of the Petitioner is, that his entire school record and the record of the paternal relatives indicates the caste as 'Kunbi'. Reliance is placed upon the family tree at page 44 of the petition paper book. His father Kishan Govindrao Gode has been granted a validity certificate of belonging to the 'Kunbi' Other Backward Classes category. The biological brother of Kishan is Gajanan, whose son Sanket has received a validity certificate of belonging to the 'Kunbi' Other Backward Classes.

3. The learned A.G.P. submits that, though there are several entries of 'Kunbi' as regards the Petitioner and his closest relatives, certain old entries indicate the caste as 'Maratha'. He vehemently supports the impugned order and contends that, contra-entries have been taken into account.

4. From the record, it is clear that the Petitioner's father has been granted validity certificate of belonging to the 'Kunbi' Other Backward Classes. Sanket s/o Gajanan, who is the biological cousin brother of the Petitioner is also granted such

(3)

validity certificate. Taking into account the law laid down by this Court in **Apoorva d/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No.1, Nagpur, 2010 (6) Mh.L.J. 401 : AIR 2010 (6) BOM R 21**, and the latest view taken by the Hon'ble Apex Court on 24/03/2023 in **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others** in Civil Appeal No.2502/2022 and other connected matters, if closest blood relatives have been granted validity certificates, unless such case are reopened, the claimant should be granted the same social status.

5. In **Shweta Balaji Isankar Vs. State of Maharashtra and others, 2018 SCC OnLine Bom 10363**, wherein this Court (Coram :- S. C. Dharmadhikari and Bharati H. Dangre, JJ.), has come to a conclusion in paragraph Nos.2 to 4 and 8, which 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

(4)

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

(5)

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.”

6. In view of the above, this petition is partly allowed. The impugned order is quashed and set aside. The Petitioner be issued with a ‘Kunbi’ Other Backward Classes validity certificate, by 15/05/2023. Needless to state, in the event, the Petitioner’s father or his biological cousin brother Sanket or any closest relative suffers reopening of the cases, and if the validity granted to such candidate is reversed and he suffers rejection of his claim, the consequences suffered by such candidate, would also befall upon the present Petitioner in the light of Shweta Balaji Isankar (supra).

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

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE, J.)