

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

WRIT PETITION NO.2791 OF 2023

**DIPAK SHANKAR THAKUR AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA THROUGH EDUCATION
DEPARTMENT AND ANOTHER**

...
Advocate for the Petitioners : Shri Wagh Mukulanand R.
AGP for the Respondents/State : Shri S.P. Tiwari
...

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

DATE :- 13th March, 2023

Per Court :-

1. The Petitioner no 1 is working as a Labourer and is not in any employment. Petitioner No.2 is the biological sister of Petitioner No.1. Both are aggrieved by the common judgment dated 30.01.2023 issued by the competent Committee rejecting their claim of belonging to “Thakur”, Scheduled Tribe category.

2. We have considered the submissions of the learned Advocate for the Petitioners and the learned AGP. With their assistance, we have gone through the petition paper book and perused the family tree of the Petitioners.

3. The learned AGP submits that the claim of Dhanraj s/o Narayan has been invalidated. His Writ Petition No.12175/2021 is pending in this Court. Narayan is the biological brother of Shankar Ramkrushna, who is the father of the present Petitioners.

4. Since the case of Dhanraj is pending adjudication, the same would be considered on it's own merits. Insofar as these two Petitioners are concerned, their father, namely, Shankar s/o Ramkrushna, has been granted the validity certificate. Ramkrushna is the son of Kalu, grandson of Sadashiv and great grandson of Balaji. The Petitioners are grandchildren of Ramkrushna. Suresh is the son of Devram, grandson of Goba, great grandson of Tukaram and great great grandson of Yadav. Yadav is the biological brother of Balaji. Suresh Devram has been granted the validity certificate.

5. Suresh Madhav is the son of Madhav, grandson of Baburao, great grandson of Vithoba and great great grandson of Devaji. Devaji is the biological brother of Balaji. Suresh Madhav has been granted the validity certificate.

6. The learned AGP submits that as the claim of Dhanraj has been invalidated, the Committee would reopen the

cases of Shankar, Suresh Devram and Suresh Madhav.

7. It cannot be ignored that Suresh Devram and Suresh Madhav are the cousin grand uncles of Dhanraj. Both of these grand uncles have been granted the validity certificates prior to the invalidation of Dhanraj.

8. In the above circumstances, the law laid down by the learned Division Bench of this Court in *Apoorva d/o Vinay Nichale vs. Divisional Caste Certificate Scrutiny Committee No.1 and others, 2010 (6) Mh.L.J. 401*, would be applicable to the cases of the Petitioners. So also, if the Committee finds that there are adverse entries or contradictory entries, which could be the basis for reopening of the cases of Shankar, Suresh Devram and Suresh Madhav, this cannot be a ground for delaying the claim of the Petitioners.

9. In *Shweta Balaji Isankar vs. The State of Maharashtra and others*, Writ Petition No.5611/2018 decided on 27.07.2018 at the Principal Seat, this Court has concluded in paragraphs 2, 3, 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.”*

10. In the above circumstances and considering the law laid down in *Apoorva Vinay Nichale (supra)* and *Shweta Balaji Isankar (supra)*, **this Writ Petition is partly allowed**. The impugned order is quashed and set aside. Both the Petitioners would be issued with the “Thakur”, Scheduled Tribe, certificates, by the Committee, on or before 31.03.2023.

11. Taking into account the law laid down in *Shweta Isankar (supra)*, in the event of the validity cases of the father of the Petitioners, namely, Shankar Ramkrushna and the grand cousin uncles Suresh Devram or Suresh Madhav, or any other close relatives, are reopened by the Committee and their claims are invalidated, the consequences suffered by these candidates

would also befall upon the present Petitioners, in which case, the case of the Petitioners can be reopened by the Committee for scrutiny.

kps (SANJAY A. DESHMUKH, J.) (RAVINDRA V. GHUGE, J.)