

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

WRIT PETITION NO.4383 OF 2020

Shweta D/o Sanjay Pupalwad
Age: 20 years, Occu: Education
R/o: Bachoti Tq. Kandhar
Dist. Nanded

... Petitioner

Versus

1)The State of Maharashtra
Through its Secretary
High & Technical Education Department
Mantralaya, Mumbai

2)The Scheduled Tribe Caste Certificate
Verification Committee Aurangabad,
Through its Member Secretary,
Aurangabad

... Respondents

...

**WRIT PETITION NO.10029 OF 2018
WITH CIVIL APPLICATION NO.15083 OF 2018**

Sanket S/o Sanjay Pupalwad
Age: Minor, Occ. Education
R/o: Bachoti, Tq. Kandhar,
Dist. Nanded
Through father & natural guardian
Sanjay s/o Nivruti Pupalwad
Age: 45 years, Occu: Service
R/o: As above

... Petitioner

Versus

1)The State of Maharashtra
Through its Secretary
High & Technical Education Department
Mantralaya, Mumbai

2)The Scheduled Tribe Caste Certificate
Verification Committee Aurangabad,
Through its Member Secretary,
Aurangabad

3)The Director,
Directorate of Technical Education,
Maharashtra State, Mumbai

4)The Commissioner & Competent Authority
State Common Entrance Test Cell,
Government of Maharashtra,
8th Floor, New Excelsior Building Fort, Mumbai

5)The Principal
College of Engineering Pune
Shivaji Nagar Pune
Dist. Pune

... Respondents

...

Mr. S. M. Vibhute, Advocate for the Petitioners
Mr. S. G. Sangle, AGP for the Respondents/State
Mr. S. G. Karlekar, Advocate for Respondent No.4

...

**CORAM : MANGESH S. PATIL &
NEERAJ P. DHOTE, JJ.**

DATE : 04.11.2023

PER COURT :

- . The petitioners who are the siblings are challenging the common order passed in their respective matters by the Scrutiny Committee invalidating their claim of belonging to 'Mannervarlu' Scheduled Tribe [44].
2. The learned Advocate for the petitioners submits that the petitioners' father possesses a validity issued to him by the Committee in the year 2011. Their cousin paternal uncle - Narayan Vyankati also possesses a certificate of validity. Even Narayan's all the four children have been issued with certificates of validity. Besides, there are few other validaties in the branch of Narsingga as

well as Chimnaji, who happen to be the brothers of their great great grandfather – Chinoda. Though Madhav's validity was not being relied upon by the petitioners, still the Committee on its own has also examined his validity. He would submit that even if the Committee has decided to re-open the cases of the validity holders since it perceives about they having practised fraud, till the time their certificates of validity are not confiscated and cancelled by following due process of law, the petitioners cannot be deprived of the benefit.

3. The learned advocate for the petitioners would also submit that the Committee has relied upon and as a ground for refuting the claim, has observed that the petitioners had concealed the invalidation in the family of their cousin great grandfather – Santosh Sheshrao Pupalwad. He submits that the petitioners deny to be in immediate relationship with Santosh. He cannot be traced in the genealogy which was before the Committee at least upto four degrees. Even if there was any such invalidity, the petitioners and their father cannot be blamed much-less attributed with any design in concealing the order of invalidation.
4. The learned Advocate would submit that the alleged manipulation about insertion of letter "लू" has also been expressly contraverted in response to the vigilance report. The petitioners are ready to run the risk of facing the consequences as contemplated in **Shewta Balaji Isankar Vs. State of Maharashtra**, in Writ Petition No.6320/2017 and they may be granted certificates of validity.
5. Learned AGP supports the impugned order. He submits that the Committee for the reason recorded in the impugned order has

perceived that the validity holders had obtained certificates of validity by resorting to fraud and has decided to re-open the inquiries and even the show-cause notices have been issued.

6. The learned AGP would further submit that the Committee has considered several contrary entries of one Ram Vykantrao whose school record of 1961 mentioned his caste as 'Popul Manurwar' and that of Narayan Vykanti of the year 1967, wherein, he has been described as 'Munurwarlu'
7. Learned AGP also points out that even the contrary entry was found in the revenue record of blood relatives which are of older times, wherein, Rajaram Chinoda and Shiva Narsing, who are the cousin great grandfathers of the petitioners describing them to be 'Manurwar'.
8. We have considered the rival submissions and perused the papers.
9. As far as the alleged fraud is concerned, it would be a matter which would be directly and substantially in issue before the Scrutiny Committee in the matters which it has decided to re-open in respect of the validity holders. Since they are not before us, we do not intend to cause any prejudice to their interest by making certain observations touching the aspect of fraud and to ascertain whether the circumstances being relied upon by the Committee to perceive that would reveal fraud.
10. The fact remains that there are validaties in the family which are still intact. Since the Committee has not observed that those were issued without following any process of law, following the decision

in the matter of **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and Ors.** reported in **2023 SCC Online SC 326**, the petitioners cannot be denied the benefit of these validaties.

11. Since the alleged manipulation and concealment of the contrary record are the circumstances, which according to the Committee are the circumstances justifying its inference regarding fraud, even we would not be in a position to, rather we deliberately refrain from making any comment upon.
12. The above discussion boils down to the effect that the validaties in the family issued by following due process of law are in force. The petitioners are, therefore, entitled to have conditional validity.
13. The learned Advocate for the petitioners submits that in the matter of petitioner – Sanket, he has filed a civil application and was granted protection to pursue his education in the respondent no.5 – College. However, since they are now being issued with the certificate of validity, may be conditionally, he would take appropriate steps independently on the basis of this validity, and seeks leave to withdraw the civil application.
14. In view of above, the following order is passed:

ORDER

- (1) The Writ Petitions are partly allowed. The impugned order is quashed and set aside. The respondent – committee shall immediately issue tribe validity certificate to the petitioner/s as belonging to 'Mannerwarlu' Scheduled Tribe in the prescribed

format without adding anything. The validity shall be subject to the final outcome of the matters which the committee has decided to re-open.

- (2) Learned AGP to communicate this order immediately to the concerned Committee.
- (3) The petitioners shall not be entitled to claim equities.
- (4) The civil application is disposed of as withdrawn.

[NEERAJ P. DHOTE, J.]

[MANGESH S. PATIL, J.]

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