

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3099 OF 2023

Ravindra S/o. Madhukar Thakur,
Age : 50 Years, Occ. : Service,
R/o. Plot No. 31-A, Dandekar Nagar,
Pimprala Road, Jalgaon,
Tq. & Dist. Jalgaon.

... Petitioner.

Versus

1. The State of Maharashtra,
Department of Tribal Development,
Mantralaya, Mumbai – 32.
Through its Secretary.
2. The Scheduled Tribe Certificate
Scrutiny Committee, Dhule Division,
Dhule, Tq. & Dist. Dhule.
Through its Member Secretary
3. The Chief General Manager,
Bharat Sanchar Nigam Limited,
CN-TX (WEST), Mumbai,
1st Floor, Administrative Building,
Juhu Danda Road, Santacruz (West),
Mumbai – 400 054.

Resp. No.3 deleted

... Respondents.

...
Advocate for Petitioner : Mr. Sushant C. Yeramwar
AGP for Respondent Nos.1 and 2 : Mr. S. K. Tambe
...

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

DATED : 20th MARCH, 2023

ORAL JUDGMENT (PER RAVINDRA V. GHUGE, J.) :

1. Leave to delete Respondent No.3. Deletion be carried out forthwith.
2. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.
3. The Petitioner is aggrieved that his claim of belonging to the 'Thakur' Scheduled Tribe has been invalidated by the Committee vide the impugned order dated 16.02.2023.
4. We have considered the submissions of the learned Advocate for the Petitioner and the strenuous submissions of the learned AGP. With their assistance, we have gone through the Petition's paper-book and the record available.
5. The Petitioner is a 50 years old employee with the Bharat Sanchar Nigam Limited (BSNL). He received a Tribe Certificate of 'Thakur' Scheduled Tribe, on 06.06.1979. After being initially appointed as a Telephone Operator-Trainee, he was absorbed in regular pay scale as Telephone Operator, then promoted as Telecom Technical Assistant, then

Junior Telecom Officer, then a Sub-Divisional Engineer and in 2018, as a Divisional Engineer. Admittedly, his entry in employment was on the basis of his claim of belonging to the Scheduled Tribe category and he received his service benefits, which were available for the reserved category.

6. We have perused the family tree placed before us by the Petitioner, which is drawn from the Vigilance Inquiry Report.

7. The Petitioner Rajendra is the son of Madhukar Thakur. One of his real sister, namely Madhavi, was granted validity certificate by the Committee. His son Mehul was also granted validity certificate by the Committee.

8. The father of the Petitioner Rajendra, namely Madhukar, has five biological siblings. Four are brothers, namely Ravindra, Padmakar, Bhaskar, and Balkrushna. The sister is Mandabai. Balkrushna has been granted validity certificate by the High Court.

9. The Petitioner's father and his five siblings, are born to Waman. Waman is son of Supdu and Supdu is son of Ramji. Ramji has a biological brother Bhagwan and their father is Raghav. The great grand daughter of Bhagwan, i.e. Samrudhi daughter of Dipak, who is son of Sudesh, is also

granted validity certificate by the High Court.

10. The learned A.G.P. Submits that contra entries have been noticed while dealing with the case of the present Petitioner. It is conceded that the biological sister of the Petitioner and his son Mehul, have been granted validity certificates by the Committee. He, however, contends that the possibility of the reopening of the cases of those who have been granted validity certificates, cannot be ruled out, in view of the contra entries having been recently noticed while dealing with the case of the Petitioner.

11. A case before this Court, in somewhat similar circumstances, was decided at the Principal Seat, vide order dated 27.07.2018 in Writ Petition No. 5611 of 2018 filed by ***Shweta Balaji Isankar V/s State of Maharashtra and others***. Paragraphs 2, 3, 4 and 8, read as follows :-

“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.”

12. In the case of *Apoorva d/o Vinay Nichale vs. Divisional Caste Certificate Scrutiny Committee No.1 and others, 2010 (6) Mh.L.J. 401*, this Court has concluded that when close/blood relatives from the paternal side are granted validity certificates, there cannot be an anomaly that close relatives belong to a particular backward category and the Petitioner is held to be not belonging to the said category. In the case before us, the biological sister and son of the Petitioner have been granted validity by the Committee. His biological first uncle and his distant cousin sister belonging to the branch of Bhagwan (the Petitioner belongs to the branch of Ramji who is biological brother of Bhagwan), have been granted the validity certificate by the High Court. Equities can be balanced by relying upon *Shweta Balaji Isankar (supra)*, so as to give scope for dealing with the cases of the validity holders, if the Committee decides to reopen their cases.

13. As such, this Petition is partly allowed.

14. The impugned order dated 16.02.2023 is quashed and set aside. The Petitioner shall be granted the validity certificate for belonging to the “Thakur” Scheduled Tribe category, on or before 30.04.2023.

15. In the event, the Committee reopens the case of any of the validity holders on whom the Petitioner has relied for support, and such

reopened cases lead to invalidation of the particular candidate, the consequences which would be suffered by the said candidates would also visit the Petitioner who would be liable to face similar consequences.

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

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE, J.)