

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6418 OF 2023

Pranita Kondiba Jukte

.. Petitioner

VERSUS

1] Scheduled Tribe Certificate
Scrutiny Committee,
Aurangabad
through its Member Secretary

2] Government Medical College, Gondia
Dist. Gondia,
through its Dean

3] Maharashtra Health Science University, Nashik
Dindori Road, Mhasrul, Nashik – 422 004
through its Registrar

.. Respondents

AND

WRIT PETITION NO. 10278 OF 2023

1] Prachi Kondiba Jukte

2] Prajakta Kondiba Jukte

.. Petitioners

VERSUS

Scheduled Tribe Certificate
Scrutiny Committee, Aurangabad
through its Member Secretary

.. Respondent

...

Advocate for petitioner: Mr. Mahesh S. Deshmukh h/f. Mr. U.B. Gite (WP/6418/2023)

Advocate for petitioner : Mr. Mahesh S. Deshmukh (WP/10278/2023)

AGP for the respondent – State : Mr. S.G. Sangale

Advocate for respondent no. 3 in WP/6418/2023 : Mrs. Vaishali S. Choudhari

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**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 4 SEPTEMBER 2023

JUDGMENT (MANGESH S. PATIL, J.) :

Petitioners are the real sisters inter se and are challenging the common order passed by the respondent - scrutiny committee in their matters confiscating and cancelling their certificates of Mannervarlu scheduled tribe.

2. Rule. Rule is made returnable forthwith. At the request of the parties, both the matters are heard simultaneously and are being disposed by this common order.

3. The learned advocate for the petitioners submits that the approach of the committee is perverse and arbitrary. It has even refused to recognize the validities in the family particularly of their own father Kondiba granted in the year 2011. Even if the committee entertains some doubt for whatever reasons regarding right of Kondiba to possess validity, till the time the certificate is not confiscated and cancelled by resorting to the due process of law the petitioners cannot be denied the benefit of having the validity.

4. He would submit that though the committee has been observing that petitioners' cousin paternal uncle has resorted to some manipulation in the school record (Prabhakar Ganpatrao Jukte) subsequently Prabhakar has been granted a certificate of validity. He would submit that the certificate of validity was issued to the petitioners'

father by following due process of law. The contrary record being relied upon by the committee to refute the petitioners' claims is in-fact the record of individuals who are not directly related to the petitioners. The petitioners have expressly denied such relation in their reply to the vigilance report. The committee could not have resorted to area restriction and the affinity test. The petitioners are ready to suffer the consequences as laid down in the matter of ***Shweta Balaji Isankar Vs. State of Maharashtra and others (writ petition no. 6320 of 2017)***.

5. Learned AGP opposes the petitions.

6. We have carefully gone through the original file of petitioners' father - Kondiba made available to us by the learned AGP. After conducting necessary vigilance enquiry he was issued with a certificate of validity *albeit* the committee now castigates him of having resorted to mis-representation and concealment. He has been issued with a notice to show cause as to why the certificate of validity issued to him should not be confiscated and cancelled. It is *ex facie* clear that the petitioners' father Kondiba was granted a certificate of validity by the then committee after conducting necessary procedure in accordance with law. Till the time it is not confiscated and cancelled, the petitioners cannot be deprived of the benefit.

7. The committee has then observed that the validity holder had obtained the certificate of validity from a committee headed by one V.S. Patil and the functioning of the then committee was regarded as dubious by the government which directed re-consideration of the decisions made by it. We need not deliberate on this. So long as the certificates of validity issued by following necessary procedure in accordance with law are not confiscated and cancelled in accordance with law as is prescribed under section 7(1) of the Maharashtra Act no. XXIII of 2001, the committee could not have refused to extend the benefit of the validities in the family by questioning the functioning of the then scrutiny committee.

8. We do not intend to make any comment on the aspect of powers of the committee to undertake a review and the facts which according to the committee constitute fraud or misrepresentation. We are doing so for two reasons; firstly the validity holders are not before us and we do not intend to cause any prejudice to them by making observations in this matter behind their back and secondly, any observation made by us could have a bearing on the matters which the committee has decided to re-open.

9. Obviously, in view of the Scheduled Castes and Scheduled Tribes (Amendment) Order, 1976, the committee could not have resorted to the area restriction and the committee also could not have

resorted to the affinity test in the light of ***Anand Vs. Committee for Scrutiny and Verification of Tribe Claims and others; (2012) 1 SCC 113*** and ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others; 2023 SCC Online SC 326***.

10. Hence, the following order :-

- I) The writ petitions are partly allowed.
- II) The impugned order is quashed and set aside.
- III) The respondent - committee shall immediately issue tribe validity certificates to the petitioners as belonging to 'Mannervarlu' scheduled tribe in the prescribed format without adding anything.
- IV) The validities shall be subject to the final outcome of the matters which the committee has decided to re-open.
- V) Petitioners and their relations shall co-operate the committee in early decision of the re-opened matters.
- VI) The petitioners shall not be entitled to claim equities.

11. Rule is made absolute.

[SHAILESH P. BRAHME]
JUDGE

arp/

[MANGESH S. PATIL]
JUDGE