

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4047 OF 2020

Niketan Suresh Komatwar

.. Petitioner

Versus

- 1] The State of Maharashtra
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai
- 2] The Scheduled Tribe
Caste Certificate Scrutiny
through its Member Secretary,
Aurangabad Division,
Aurangabad
- 3] The Registrar,
Maharashtra University of Health
Science Dindori Road, Nashik
Dist. Nashik
- 4] The Dean,
Seth G.S. Medical College,
Daud Marg Parel, Mumbai – 12

.. Respondents

AND

CIVIL APPLICATION NO. 11937 OF 2021 IN WP/ 4047 /2020
(Niketan Suresh Komatwar Vs. The State of Maharashtra and others)

...

Advocate for petitioner : Mr. Girish V. Wani
Addl. GP for the respondent – State : Mr. P.S. Patil

...

WITH

WRIT PETITION NO. 5955 OF 2020

Suresh Ramchandra Komatwar

.. Petitioner

Versus

- 1] The State of Maharashtra
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai

- 2] The Scheduled Tribe Caste
Certificate Scrutiny Through its
Member Secretary
Aurangabad Division,
Aurangabad

- 3] The Superintendent of Post Office,
Beed Division, Beed

.. Respondents

...
Advocate for petitioner : Mr. Anandsingh Bayas
Addl. GP for the respondent – State : Mr. P.S. Patil
...

AND
WRIT PETITION NO. 1147 OF 2022

Om S/o Suresh Komatwar

.. Petitioner

Versus

- 1] The State of Maharashtra,
Through its Secretary,
Medical Education and Drugs Department,
Mantralaya, Mumbai
- 2] The Scheduled Tribe Caste Certificate
Verification Committee, Aurangabad
Through its Dy. Director (R)
Aurangabad
- 3] The Commissioner & Competent Authority,
Commissionerate of Common Entrance Test Cell,
Government of Maharashtra,
8th Floor, New Excelsior Building,
A.K. Naik Marg, Fort, Mumbai

.. Respondents

...
Advocate for petitioner : Mr. S.M. Vibhute
Addl. GP for the respondent – State : Mr. P.S. Patil
...

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

DATE : 5 JULY 2023

ORDER (MANGESH S. PATIL, J.) :

Rule in all the three matters. It is made returnable forthwith.

2. Learned Additional Government Pleader waives service.

3. At the joint request of the parties, these matters are being heard finally at the stage of admission.

4. By way of these writ petitions under Article 226 of the Constitution of India, the petitioners are challenging the judgment and order passed by the respondent - Scheduled Tribe Caste Certificate Verification Committee invalidating their claim as belonging to Rajgond scheduled tribe. Since petitioner – Suresh happens to be the biological father of petitioners Niketan and Om and it is a matter of social status of the entire family, these matters are being taken up for final disposal together.

5. It is also necessary to note that the judgment and order in the matter of Suresh and Niketan is common whereas in respect of Om, it is separate. However, being a matter of social status, all these petitioners are relying upon the same set of facts and evidence to substantiate their claim and in our considered view to obviate rigmarole these matters can be taken up simultaneously.

6. Both the sides have taken us through the entire record in all the three matters thoroughly. They also attempted to demonstrate as to how the evidence before the scrutiny committee was sufficient to substantiate the claim of the petitioners or otherwise.

7. We are of the considered view that since the petitioners have been relying upon the validities of the blood relations from the paternal side which are still in existence and have not been revoked or cancelled and when there is absolutely no dispute about the blood relation between these validity holders and the petitioners, we are bound by the observations of the Supreme Court in the matter of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others; 2023 SCC Online SC 326***, it has specifically observed therein that though the committee is entitled to demonstrate that the validities being relied upon by the claimants were not obtained in accordance with the decision in the matter of ***Ku. Madhuri Patil and another Vs. Additional Commissioner, Tribal Development, Thane and others; (1997) 5 SCC 437*** or the rules, the scrutiny committee is entitled to undertake a fresh scrutiny by issuing notices to the validity holders.

8. Admittedly, though in the impugned orders the committee has made some attempt on these lines to demonstrate as to how the petitioners are not entitled to derive benefit of these validities which were obtained either by practising fraud or by misleading the then

scrutiny committee and even though it has also expressed its intention to re-open the cases of the validity holders, as of now, the process has not been undertaken much less to take it to the logical end. Pertinently, the common order in the matter of Suresh and Niketan was passed on 16-12-2019. For a period of more than 3-1/2 years, there is no progress to make any attempt to re-investigate and revoke the certificates granted to the validity holders. In our considered view, irrespective of the reasons for the committee to take a decision for re-opening these cases, for the time being the petitioners cannot be denied the benefit of social status for years together and they cannot be expected to wait till the committee finds time and decides the matters of the validity holders after reconsideration.

9. Precisely for this reason, this Court has been consistently finding a way out and have been granting validities subject to the condition and with a rider that such validity certificates would be subject to the outcome of the cases being re-opened by the committees.

10. Going a step further, the matter in hand presents another circumstance which according to us leaves us with no choice but to allow all these writ petitions, in view of the decision in ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti*** (supra). As is mentioned herein-above, with respect, the Supreme Court has contemplated a situation where there are validity holders from the blood relations from the paternal side.

11. In the matter in hand, admittedly, apart from the near blood relations from the paternal side as is mentioned in the impugned orders, matter of one Bharat Nagnathrao Komatwar regarding whom there is no dispute that he stands in the blood relations from the paternal side of the petitioners, was denied the validity certificate. He had approached this Court in writ petition no. 1958 of 2006. The matter was remanded to the scrutiny committee to take a decision afresh for the reasons recorded in that order, by extending an opportunity to him of being heard. Pursuant to such remand, the scrutiny committee undertook a further enquiry and granted validity certificate way back in the year 2007.

12. We point out this circumstance to demonstrate that in the impugned orders, the committee has been laying emphasis on the fact that there were three initial invalidities suffered by the petitioner's blood relations in the year 1991 and 1994 and without disclosing this fact, subsequently, some of these individuals had obtained validities and based on that the other blood relations were successful in obtaining the validity certificate.

13. We do appreciate that if at all there is a case of fraud as is being alleged, as has been laid down in the matter of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti*** (supra), it would always be open for the committee to undertake a fresh scrutiny. However,

whether there was actual fraud or otherwise and whether the scrutiny committee would be able to justify its decision to re-open the validities in the parameters of law is a matter to be pondered upon in an appropriate proceeding.

14. We are only faced with a situation where admittedly there are number of validity holders whose certificates are still to be revoked and cancelled. The petitioners being the blood relations from the paternal side cannot be refused the validity certificate.

15. We allow the writ petitions partly.

16. The impugned orders are quashed and set aside.

17. Pending civil application is disposed of.

18. The respondent – scrutiny committee shall immediately issue the validity certificates to the petitioners as expeditiously as possible and in any case within two weeks. However, such certificate would be valid subject to the outcome of the matter/s being re-opened by the scrutiny committee and that the petitioners shall not claim equities.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

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