

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6776 OF 2022

Shraddha Vyankatrao Muppallwad

.. Petitioner

Versus

- 1] The State of Maharashtra
Through its Secretary,
Tribal Department,
Mantralaya, Mumbai – 32
- 2] The Scheduled Tribe Certificate Scrutiny
Committee, Aurangabad
Through its Deputy Director (R)
- 3] The Principal,
Government Medical College, Miraj,
Tq. Miraj, Dist. Sangli
- 4] The Registrar,
Maharashtra University of Health Sciences, Nashik,
Dindori Road, Nashik, Tq. & Dist. Nashik

AND

WRIT PETITION NO. 6779 OF 2022

Sachin Vyankatrao Muppallwad

.. Petitioner

Versus

- 1] The State of Maharashtra
Through its Secretary,
Tribal Department,
Mantralaya, Mumbai – 32
 - 2] The Scheduled Tribe Certificate Scrutiny
Committee, Aurangabad
Through its Deputy Director (R)
 - 3] The Principal,
MIT B.Tech College, Satara Parisar, Aurangabad
Tq. & Dist. Aurangabad
 - 4] The Registrar,
Maharashtra University Marathwada Vidyapeeth,
Aurangabad Tq. & Dist. Aurangabad
- .. Respondents

...
Advocate for petitioner in both WPs : Mr. P.V. Jadhavar
Addl.GP for the respondent – State : Mr. P.S. Patil
...

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

DATE : 25 JULY 2023

ORDER (MANGESH S. PATIL, J.) :

By way of these two separate writ petitions, the real brother and sister are challenging the selfsame order passed by the respondent – Scrutiny Committee in a proceeding under section 7 of the Maharashtra Act no. XXIII of 2001 thereby seizing and cancelling their tribe certificates as belonging to *Mannervarlu* scheduled tribe.

2. Considering the fact that petitioner – Sachin has completed the Engineering course whereas petitioner – Shradha is intending to pursue medical post graduation course in the ongoing process, these petitions are taken up for adjudication finally at the admission stage.

3. The learned advocate for the petitioners would submit that the petitioners' father – Vyankat Sayabu Muppallwad is a validity certificate holder. There was no reason for the committee to discard it merely by entertaining a doubt. Contrary entries relied upon by the committee are not of the blood relations. The vigilance was conducted. Its report was duly replied. So long as the validity certificate of the

petitioners' father is not revoked and cancelled, the petitioners are entitled to have the validity certificates. An old document in Urdu of pre-constitutional date was produced before the committee wherein the petitioners' forefathers were described as *Mannervarlu*. The committee had no valid reason to discard this. It has not disputed the translation. The exercise undertaken by it to refer the writing on the stamp to the India Security Press, Nashik and based on the reply, entertaining a doubt, is not tenable. The approach is incorrect and the petition be allowed.

4. The learned AGP also takes us through the original record and would submit that there are number of contrary entries of the blood relations which are either *Munurvar* or *Munurvad* which are separate castes and have no similarity with *Mannervarlu* scheduled tribe to which the petitioners claim to belong to.

5. He would submit that no plausible explanation was offered by the petitioners and the committee has weighed the evidence in the proper perspective referring to several contrary entries.

6. Learned AGP would then submit that so far as the document in Urdu on a stamp paper produced by the petitioners is concerned, the committee had referred it to the Nashik Security Press, Nashik. It expressly informed not to have printed and issued the stamp

paper and, therefore, no fault can be found with the approach of the committee in discarding this document.

7. As far as the validity certificate of petitioners' father – Vyankat is concerned, the learned AGP submits that he had obtained the validity certificate based on the validities of the relations from the maternal side and the then committee could not have issued this certificate. The decision has been taken to re-consider its validity on the ground of fraud.

8. We have carefully considered the rival submissions and perused the papers.

9. Obviously, if the petitioners' father has obtained the validity certificate relying upon the validities of the blood relation from the maternal side and if that alone was the ground for the then committee to issue the validity certificate, its benefit in the normal course, cannot be extended to the petitioners since it cannot be said that the validity certificate was issued in accordance with the rules and the law as has been laid down in the matter of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others; 2023 SCC Online SC 326.***

10. However, it is to be noted that whether the validity certificate issued to the petitioners' father has been issued in

accordance with law and if there was enough material before the then committee to issue the validity certificate would be the subject matter of a threadbare scrutiny which the committee has decided to undertake by expressing its intention to re-open the case. So long as that validity certificate is not seized and cancelled, the petitioners, in our considered view, are entitled to have a validity certificate which can be made subject to the decision to be taken in the matter of their father.

11. Again, admittedly the petitioners had produced a document scribed on purportedly a stamp paper in Urdu and its translation is also available on the record. The committee did not doubt the translation which *inter alia* demonstrates that this document is of 20-04-1942 wherein some land was sold to the petitioners' paternal ancestor Vyanka Yalappa Mannervarlu for a valid consideration. This Vyanka has been described therein as *Mannervarlu*. Obviously, therefore, this document if it is accepted to be genuine would be a clinching piece of evidence to indicate that the petitioners are indeed *Mannervarlu* scheduled tribe.

12. The committee in order to ascertain if the document is genuine, had forwarded this original document to the Nashik Security Press, Nashik which had replied by informing that it had neither printed nor has issued the stamp paper. This is the only reason quoted by the committee in the impugned order to discard this document.

13. However, it is pertinent to note that this document is of the year 1942 purportedly executed at Dongaon, Tq. - Mudhol, District – Adilabad which in the year 1942 was under the regime of Nizam of Hyderabad. There is no material to demonstrate that even at that time when this stamp paper purports to have been printed and circulated, the Nizam state was getting such stamp papers printed from the Nashik Security Press, Nashik which then was under the British regime. The committee seems to have proceeded on the assumption that this stamp paper ought to have been printed and circulated by the Nashik Security Press, Nashik when the document itself does not indicate anything about that. Therefore, merely because Nashik Security Press informed that this stamp paper was not printed and circulated by it that in our considered view could not have been the sole ground to discard it.

14. In view of such state-of-affairs, it would have been appropriate for the committee to first ascertain as to where this stamp paper purports to have been printed and circulated and then to enquire with that Printing Press. In the absence of such a course, the decision of the committee to discard this document out-rightly is not legal and proper.

15. In view of such state-of-affairs, apart from the fact that the validity of the petitioners' father is still in existence and the fact that the committee had no valid and sound reason to discard the Urdu document of 20-04-1942, in our considered view, it would be appropriate to remand the matter to the scrutiny committee to undertake the scrutiny in respect of genuineness of this Urdu document and arrive at a fresh conclusion and for the time being the petitioners are issued with the validity certificates subject to the decision the committee would be taking in the matter of their father and even in the present matters.

16. The writ petitions are partly allowed.

17. The impugned order is quashed and set aside.

18. The matter is remanded back to the scrutiny committee for taking a decision afresh in the light of the observations made herein-above.

19. The decision shall be taken as expeditiously as possible and in any case within six months by extending an opportunity to the petitioners to participate in this enquiry and even to lead evidence if they so chose.

20. For the time being the respondent – scrutiny committee shall issue validity certificates to the petitioners immediately which shall be subject to the decision to be taken by the committee after remand in the present matters and also subject to the outcome of the re-opened matter of their father.

21. Petitioners shall not be entitled to claim any equities.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

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