

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5098 OF 2019

Kum. Manisha Prakash Bodemwad

.. Petitioner

Versus

- 1] The State of Maharashtra
Through Secretary
Tribal Development Department
Mantralaya, Mumbai
- 2] The Scheduled Tribe Certificate
Scrutiny Committee
Aurangabad Division
Plot No. 10, Sector E-1,
Near Saint Lawrence High School,
Opp. CIDCO Bus Stand, Aurangabad
- 3] The Sub Divisional Officer,
Office of SDO, Kandhar, Nanded
- 4] The Chairperson / Commissioner
Commissionerate, CET Cell
(Competent Authority)
State of Maharashtra
8th Floor, New Extension Building,
A.K. Nayak Marg, Fort, Mumbai
- 5] The Director,
Directorate of Medical Education & Research
St. George's Hospital, Near CSMT, Mumbai

.. Respondents

AND
WRIT PETITION NO. 5746 OF 2023

Pankaj S/o Prakash Bodemwad

.. Petitioner

Versus

- 1] The State of Maharashtra
Through its Secretary
Tribal Development Department
Mantralaya, Mumbai – 32.

2] The Scheduled Tribe Certificate
Scrutiny Committee
Aurangabad (Now Kinwat),
Plot No. 10, Sector E-1,
Near Saint Lawrence High School,
Aurangabad through its Member Secretary

3] The Sub Divisional Officer,
Kandhar, Nanded

.. Respondents

**AND
WRIT PETITION NO. 5747 OF 2023**

Pavan S/o Prakash Bodemwad

.. Petitioner

Versus

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

2] The Scheduled Tribe Certificate
Scrutiny Committee
Aurangabad (Now Kinwat)
Plot No. 10, Sector E-1,
Near Saint Lawrence High School,
Opp. CIDCO Bus Stand,
Aurangabad through its Member Secretary

3] The Sub Divisional Officer,
Kandhar, Nanded

.. Respondents

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Advocate for petitioners in all WPs : Mr. A.S. Golegaonkar
h/f. Mr. M.A. Golegaonkar

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

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

DATE : 23 AUGUST 2023

ORDER (MANGESH S. PATIL, J.) :

Writ petitions no. 5746 of 2019 and 5747 of 2023 are not on Board. Taken on Board on mentioning.

2. The petitioners who are blood relations inter se from the paternal side are challenging the common order passed by the respondent - scrutiny committee in their separate matters thereby confiscating and cancelling their certificates of Mannervarlu scheduled tribe. Since the evidence is common discussed by the committee in common and has passed a common order, we have taken up all the three matters together for final disposal.

3. The learned advocate for the petitioners submits that there is no dispute about the genealogy. Petitioners are the siblings. Their father Prakash possess a certificate of validity. Prakash's three cousin nephews and a cousin niece are also validity holders. Prakash was granted certificate of validity by the then committee after undertaking a vigilance enquiry. Even if the committee now alleges he having practised fraud while obtaining certificate of validity, so long as it is not confiscated and cancelled by undertaking the process of law, the petitioners cannot be deprived of having the certificates of validity.

4. The learned AGP opposes the petitions and submits that it is a clear case of fraud practised by Santosh while obtaining certificate of validity. The school record was manipulated by one Santosh who is the distant parental cousin of petitioners in respect of his father Kishan. There were several contrary entries describing the family members as Munurvar, Manovar. Those entries were concealed and the petitioners cannot be allowed to derive the benefit of such fraud practised by Santosh. The committee has taken a conscious decision to undertake a fresh scrutiny of Santosh's claim and confiscated and cancelled the certificate of validity by issuing a notice to him.

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

6. It does appear that the committee has undertaken a threadbare scrutiny and has tried to demonstrate the circumstances to justify its inference about Santosh having practised fraud on the committee while obtaining the certificate of validity. Since the committee has now decided to issue a notice to him, we do not intend to undertake any objective scrutiny of the circumstances which had weighed with the committee in reaching an inference that he had practised fraud. Santosh is not before us and we do not want any observations to be made behind his back which could have a bearing on the matter which the committee has now decided to re-open. The

fact remains that till the time his certificate of validity is not confiscated and cancelled by following due process of law and when though the decision by way of impugned order passed about 5 years back was taken to re-open his case, the matter has not been taken to its logical end. The petitioners cannot be deprived of having the benefit of his validity.

7. The committee has thereafter questioned the composition of the then committee which decided the matter of Santosh. In our considered view, a successor committee cannot question such composition more so when according to rule 9(3) of the Maharashtra Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Rules, 2003, the decision of the committee which comprises of three members can be by majority. There was no dispute about the eligibility of the other two members and consequently, this ground will not be sustainable.

8. In the circumstances, the petitioners deserve to be granted certificates of validity subject to certain conditions.

9. The writ petitions are partly allowed.

10. The impugned order is quashed and set aside.

11. The scrutiny committee shall immediately issue certificates of validity to the petitioners of Mannervarlu scheduled tribe. Their validity would depend upon the matter which the committee has decided to re-open.

12. The petitioners and their relations shall co-operate the committee in early decision of the re-opened matters.

13. The petitioners shall not be entitled to claim equities.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/