

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.7217 OF 2023

Sakshi d/o Shankarrao Kanchanwar

... **Petitioner**

Versus

1. The State of Maharashtra
through the Secretary
Tribal Development Department,
Mantarlaya Mumbai- 32.
2. The Member Secretary Deputy Director,
Scheduled Tribe Certificate Scrutiny
Committee, Kinwat, Dist. Nanded,
Head office at 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.
4. The Sub-Divisional Magistrate,
Deglur, Tq. Deglur,
Dist. Nanded.

... **Respondents**

...

Advocate for Petitioner : Mr. B.L. Sagar Killarikar h/f. Mr. Giri Umakant P.
AGP for Respondents: Mr. S.K. Tambe

...

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

DATE : 07.08.2023

PER COURT :

We have heard both the sides finally at the stage of admission.

2. The petitioner's tribe claim as belonging to 'Mannervarlu' scheduled tribe has been turned down by the Scrutiny Committee in a proceeding under Section 6 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 Act, 2000.

3. Admittedly, the petitioner's father Shankarrao Venkatrao Kanchanwar has been issued with a validity certificate by the then Committee by its order dated 27.09.2007. We had called upon the learned AGP to seek the original papers in his matter and have gone through it. It appears that Shankarrao's claim was scrutinized threadbare. Evidence was collected, affidavits were solicited. He had produced few validities as also the document of the year 1952 in Urdu, wherein, petitioner's paternal ancestor was described as 'Mannervarlu'. The Committee had expressly relied upon this Urdu document and its translation. Apart from the validities being relied upon by the petitioner's father and after going through few other entries it had directed a validity certificate to be issued to him.

4. We are making these observations precisely because of the observations of the Supreme Court in the matter of **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and Ors.; 2023 SCC Online SC 326** in paragraph No.23. There cannot be any dispute about the fact that the Shankarrao was granted validity by following necessary procedure as is required by the Act and the Rules framed thereunder. The Committee has vaguely observed that it was obtained by resorting to fraud without indicating as to what are the circumstances which compelled it to make these observations. The element which should be considered as an attempt at fraud is conspicuously missing from the order under challenge. It

is not as has been observed by the Committee that Shankarrao was granted validity simply by relying upon validities of the maternal side relations. Apart from that it had also relied upon the Urdu document and few other entries. If such is the state of affairs, following the guidelines laid down in the matter of **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti** (supra) in paragraph Nos.22, 23 and 24, the petitioner cannot be deprived of the benefit of Shankarrao's validity who is his father.

5. Even if now the committee has decided to reopen the Shankarrao's validity, that will take its own course. Till the time, when the petitioner is ready to run the risk of having a conditional validity she cannot be deprived of the benefit.

6. The writ petition is partly allowed. The impugned order is quashed and set aside. The committee shall immediately issue tribe validity certificate by tomorrow to the petitioner as belonging to '*Mannervaru*' scheduled tribe, which shall be subject to the decision to be taken by the committee in the reopened matters.

7. The petitioner shall not be entitled to claim equities.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)