

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

WRIT PETITION NO.8897 OF 2021
with Civil Application No.7598 of 2023

Yogesh s/o Dattatray Jagtap,
Age-32 years, Occ. Service,
R/o At-Gahukhel, Post- Velturi,
Tq. Ashti, Dist. Beed.

... **PETITIONERS**

V/s.

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

2. The Scheduled Tribe Certificate
Scrutiny Committee,
Aurangabad Division, Aurangabad
Through its Member Secretary.

3. The Chief Executive Officer,
Zilla Parishad, Ratnagiri,
Tq. & Dist. Ratnagiri.

... **RESPONDENTS**

...

Advocate for Petitioners : Mr. S.C. Yeramwar
AGP for Respondent/State : Mr. P.S. Patil
Advocate for Respondent Nos.3 & 4 : Mr. S.B. Bhosale

...

**CORAM : RAVINDRA V. GHUGE &
Y.G. KHOBRAGADE, JJ.**

DATE : 27th October, 2023

ORAL JUDGMENT (Per: Ravindra V. Ghuge, J.) :-

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2. The Petitioner is in service and has suffered the order of invalidation of his tribe claim belonging to Thakar Scheduled Tribe category, dated 22.07.2021.

3. We have considered the submissions of the learned advocates for the respective sides and gone through the petition paper book and the record available. The family tree of the Petitioner indicates as under:

- a) The Petitioner is the son of Dattatraya from the branch of Pandurang s/o Maruti.
- b) Baban s/o Govinda is the biological cousin brother of Dattatraya.
- c) Govinda's father of Ananda and Pandurang's father Maruti are biological brothers.
- d) Subhash s/o Baban has been granted validity certificate by the committee.
- e) Laxman is the biological brother of Baban whose son Khushaba has been granted validity certificate by the committee.
- f) Madhukar is the son of Maruti and son of Rama.
- g) Rama is the biological brother of Maruti S/o Tatya and Ananda s/o Tatya.
- h) Abaji is the biological brother of Maruti and he is son of Rama.
- i) Yogesh is the son of Rajendra who is the son of Keshav.
- j) Keshav is the son of Abaji and grandson of Rama s/o Tatya.
- k) Yogesh is therefore from the branch of Rama s/o Tatya. He is granted validity certificate by the committee (V.S. Patil Committee).
- l) Dyaneshwar who is son of Santosh and grandson of Ganpath who is son of Abaji has been granted validity certificate by the High Court vide judgment dated 22.11.2021 delivered in Writ Petition No.9115/2021.

4. The learned AGP takes a serious objection to the adding of Dyaneshwar in the family tree of the present Petitioner on the ground that only because Dyaneshwar got an order from the High Court validating his claim, the Petitioner is now trying to rely on Dyaneshwar who claims to be from the branch of Rama and the Petitioner is from the branch of Maruti (Maruti and Rama are biological brothers)

5. The learned advocate for the Petitioner points out from the judgment dated 22.11.2021 (supra) that this Court relied upon the old record of the grandfather of the Petitioner while considering the case of the Dyaneshwar and has granted validity certificates since he belongs to the branch of Rama s/o Tatyaraao.

6. The learned AGP submits that as there are several adverse entries, the committee might reopen the cases of all those persons who have been granted validity certificates.

7. In **Shweta Balaji Isankar vs. The State of Maharashtra and others** (Writ Petition No.5611/2018) decided on 27.07.2018, this Court in paragraph 3 and 4 held as under:

“3. On such a finding being rendered by the Committee, we called upon the learned AGP on the earlier two occasions to produce the record. We also indicated to the learned AGP as to how the certificate of validity is denied to the petitioner though she has established her

relationship with the said Govind and only on the ground that a show cause notice has been issued, but no proceedings in furtherance thereof came to be initiated till date. The learned AGP sought time to file an affidavit. Now, the Joint Commissioner, Schedule Tribe Scrutiny Committee, Aurangabad has filed an affidavit in reply. That is taken on record. The said affidavit admits that the certificate of validity has been issued to her real uncle and cousin uncle of the petitioner. The affidavit admits that the petitioner relies heavily on these two documents, but clarifies that there is a suppression detected from the original record of the certificate holder and that is how a show cause notice has been issued to Govind. The show cause notice could not be taken to its logical end on account of the huge pendency of cases before this Committee. In all, 7,000 matters were pending on the date when this Joint Commissioner took charge and he has reduced the pendency by 2500 cases being decided. In the circumstances, he says that appropriate orders and directions be issued by this Court.

4. *We are not impressed by this explanation and the justification not to proceed against a person who has perpetrated a fraud on the public. If it is a serious allegation and which is termed as fraud, then, it should have been taken to its logical end. Mere issuance of a show cause notice in the present case would not suffice for There are two certificates of validity relied upon. The only reason assigned in the impugned order to discard them, cannot be sustained. The justification in the above affidavit is also not enough to straightaway discard the certificates of validity issued in the family. It is conceded that other reasons assigned in the impugned order cannot be supported in law.”*

8. It is thus apparent that there are five validity holders from the paternal side of the Petitioner. The law laid down in **Apporva Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No.1 and others; 2010 (6) Mh. L.J. 401**, would apply to the case of the Petitioner. Since the learned AGP submits that some of the cases of the validity holders are likely to be re-opened,

we would place reliance on **Shweta Balaji Isankar** (supra) and grant conditional validity to the present Petitioner.

9. In view of the above, **this petition is partly allowed**. The impugned judgment is quashed and set aside. The committee shall issue the validity certificate to the Petitioner within 30 days from today. Needless to state, if any of the validity holders whose validity certificates have been relied upon by the Petitioner, suffer reopening of their cases and eventual invalidation, the consequences suffered by them, would befall upon the present Petitioner, who would also be liable to suffer the same consequences. Rule is made partly absolute in above terms.

10. In so far as the Civil Application is concerned, **the same is allowed in terms of prayer clause-B**.

[Y.G. KHOBRADE, J.]

[RAVINDRA V. GHUGE, J.]