

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

Writ Petition No. 8276 / 2023

Sourabh Baburao Totod,
Age 20 years, Occu. Student,
R/o. Kundalwadi, Tq. Biloli,
Dist. Nanded.

...Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary,
Tribal Department,
Mantralaya, Mumbai.
2. The Scheduled Tribe Certificate
Scrutiny Committee, Kinwat,
Headquarter Aurangabad.
Through its Deputy Director (R).

...Respondents

WITH

Writ Petition No. 8275 / 2023

Nagesh Gangadhar Totod,
Age Minor, Occu. Student,
Under guardian of father
Gangadhar Naganna Totod
Age 48 years, Occu.: Service,
R/o. Kundalwadi, Tq. Biloli,
Dist. Nanded.

...Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary,
Tribal Department,
Mantralaya, Mumbai.
2. The Scheduled Tribe Certificate
Scrutiny Committee, Kinwat,
Headquarter Aurangabad.
Through its Deputy Director (R).

...Respondents

Writ Petition No. 8274 / 2023

Sakshi Gangadhar Totod,
Age 19 years, Occu. Student,
R/o. Kundalwadi, Tq. Biloli,
Dist. Nanded.

...Petitioner**Versus**

1. The State of Maharashtra,
Through its Secretary,
Tribal Department,
Mantralaya, Mumbai.
2. The Scheduled Tribe Certificate
Scrutiny Committee, Kinwat,
Headquarter Aurangabad.
Through its Deputy Director (R).

...Respondents

Mr. Pratap V. Jadhavar, Advocate for the Petitioner in all petitions.

Mr. A. A. Jagatkar, AGP for respondents/State in all petitions.

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

DATE : 17 JULY, 2023.

FINAL ORDER [PER : SHAILESH P. BRAHME, J.] :

. Heard both the sides. Taken up for final disposal at the admission stage, considering the urgency in the matters.

1. All the petitioners are close relatives. Their relations interse as well as with the validity holders is not disputed. The genealogy is placed on record at page no.21 of writ petition no.8276/2023. Sakshi and Nagesh are the siblings of Gangadhar. Saurabh is their cousin. The material on record in the writ petitions is common. Hence these petitions are decided by common order.

2. The petitioners are challenging common judgment and order dated 06.07.2023 passed by the Scrutiny Committee, invaliding their claim for Scheduled tribe Mannervarlu. The Scrutiny Committee held that there are contrary entries in the school record of the blood relatives. The record of the sale transactions of the close relatives disclosed that the relatives Sailu, Shankar, Gangadhar had declared therein that they were not tribals. The validity certificates were discarded because those were obtained without following proper procedure of law and by suppressing material facts. The affinity test was recorded against them.

3. The petitioners rely upon the validity certificate issued in favour of Sonali, Sneha and Gangadhar. The learned Counsel submits that after following due procedure of law, validity certificate was issued to Sonali by a reasoned order. The school record was verified by the Scrutiny Committee in case of Sonali. The learned Counsel submits that in view of law laid by the Supreme Court in the matter of **Maharashtra Adavasi Thakur Jamat Swarakshak Samiti vs. State of Maharashtra & others** reported in 2023(2) Mh.L.J.785, the petitioners are entitled to validity certificates.

4. The learned AGP supports the impugned judgment and order. Additionally the original files of Sonali and Sakshi are produced on record during the course of hearing. The contrary entries from it are shown to us. He further submits that the genealogy produced in the matter of Sonali is inconsistent with the genealogy produced in the matter of Sakshi i.e. Writ Petition No. 8276/2023. In the sale transaction, the close relatives had relinquished their status as

member of the scheduled tribe. The Committee has decided to reopen matter of Sonali. Therefore learned AGP urges to dismiss the petition.

5. In the matter of Writ Petition No.8276/2023 of Saurbah, a genealogy is produced on record at page no.21. There are validity holders on the paternal side of the petitioners. There is a vigilance report produced on record in the matter of Sonali. The school record was verified during the vigilance enquiry. She was issued with the tribe certificate after following due procedure of law by a reasoned order. We do not find any impediment to rely upon the validity certificate of Sonali.

6. By following the law laid down by the Supreme Court in above referred matter, we are inclined to allow the writ petitions. The instances quoted by the learned AGP from the inconsistent genealogy and sale deed of the blood relatives can be taken into account by the Scrutiny Committee during the course of re-verification of validity of Sonali. However, presently the petitioners are eligible for provisional validity. The common judgment and order of the Scrutiny Committee is arbitrary and unsustainable in law.

7. For the reasons stated above, the petitions are partly allowed as follows.

- (i) The common judgment and order dated 06.07.2023 passed by the Scrutiny Committee is quashed and set aside.
- (ii) The Scrutiny Committee shall issue tribe validity certificate of scheduled tribe 'Mannervarlu' in favour of the petitioners, namely

Sourabh Baburao Totod, Nagesh Gangadhar Totod and Sakshi Gangadhar Totod within a period of two weeks, which shall be subject to following conditions.

- (a) The caste validity certificate shall be subject to the outcome of the re-verification of validity certificate of Sonali proposed to be reopened by the Scrutiny Committee.
- (b) The petitioners shall not claim any equity.
- (c) The petitioners shall cooperate with the Scrutiny Committee.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]