

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

WRIT PETITION NO. 11949 OF 2019

Kum. Pooja d/o Nagnath Bhusanwad,
Age 24 years, Occ. Student,
R/o. PO Awalkonda, Tq. Udgir,
Dist. Latur.

... **Petitioner.**

VERSUS

- 1) The State of Maharashtra,
Through the Secretary Tribal
Development Department,
Mantralaya Mumbai.
 - 2) The Scheduled Tribe Certificate Scrutiny
Committee Aurangabad Division.
 - 3) The Sub Divisional Officer
Office of SDO, Udgir, Tq. Udgir,
Dist. Latur.
 - 4) The Collector, Collectorate Latur.
 - 5) The Schedule Tribe Certificate Scrutiny
Committee Kinwat, Headquarter at Aurangabad
Through Member Secretary
- ... **Respondents.**

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Advocate for the Petitioners : Mr. S.S. Phatale
A.G.P for the Respondent Nos. 1 to 5 : Mr. S.G. Sangale

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WRIT PETITION NO. 1431 OF 2020

Shubham s/o. Nagnath Bhusanwad
Age 18 years, Occ. Student,
R/o. PO Awalkonda, Tq. Udgir,
Dist. Latur.

... **Petitioner.**

VERSUS

- 1) The State of Maharashtra,

Through the Secretary Tribal
Development Department,
Mantralaya Mumbai.

- 2) The Scheduled Tribe Certificate Scrutiny
Committee Aurangabad Division.
 - 3) The Sub Divisional Officer
Office of SDO, Udgir, Tq. Udgir,
Dist. Latur.
 - 4) The Collector, Collectorate Latur.
 - 5) The Schedule Tribe Certificate Scrutiny
Committee Kinwat, Headquarter at Aurangabad
Through Member Secretary.
- ... Respondents.

...

Advocate for the Petitioners : Mr. S.S. Phatale
A.G.P. for the Respondent Nos. 1 to 5 : Mr. S.G. Sangale

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

DATE : **30.06.2023**

PER COURT :

At the outset, the learned advocate for the petitioner submits that due to bifurcation of the Scheduled Tribe Scrutiny Certificate Committees - respondent No. 2, the petitioners matter would now be pertaining to the Scheduled Tribe Scrutiny Committee Kinwat division headquartered at Aurangabad, he seeks leave to add it as a party respondent. Request is accepted. Amendment is allowed to be carried out forthwith.

2. Learned A.G.P. waives service for the newly added respondent no. 5.
3. Heard both the sides finally. The petitioners who are real siblings are aggrieved by the common judgment and order passed by the respondent-scrutiny committee where by their claims as belonging to Koli Mahadev

scheduled tribe have been turned down on 12.07.2019.

4. We pointedly refer to the date of the order under challenge to demonstrate that in spite of the committee being aware that the petitioners who are the real siblings of Sunaina, who had succeeded in obtaining a validity certificate, the scrutiny committee intends to revoke it on the ground that it was obtained by practising fraud and even the impugned order indicates that the committee was to issue a notice to her. If the impugned order was passed on 12.07.2019, in the normal course, the matter in respect of the reopened case of petitioners' sister Sunaina should have reached the logical end. We have been provided with the original record of the scrutiny committee which indicates that a notice was subsequently issued to Sunaina. She had responded to it in writing. The notes of arguments were also furnished and the matter was closed for final adjudication/decision way back in the year 2020 and still the committee has not been able to take any final decision for whatever reasons best known to it.

5. The learned A.G.P, on instructions, would submit that the committee would now take a final decision in the matter of Sunaina within four weeks.

6. We will not comment on the statement of the learned A.G.P as the circumstances do not justify the statement.

7. Be that as it may, in spite of a period of more than four years having lapsed since the impugned order was passed the committee has not been able to take a decision in the matter of real sister of the petitioners by name Sunaina. She has enjoyed the benefit of the validity and the petitioners in our considered view cannot be deprived of the similar benefit, albeit their fate would depend upon the ultimate decision in the matter of Sunaina.

8. We are alive to the fact that the ratio in the matter of **Apoorva d/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee no. 1 and**

others; 2018(6) Mh.L.J. 401 dilutes the decision in the matter of **Raju Ramsing Vasave Vs. Mahesh Devrao Bhivapurkar and others; (2008) 9 SCC 54**. However, those decisions do not bother us inasmuch as, the committee having not taken any final decision in the matter of Sunaina, the petitioners being her real brother and sister would have to be given validities conditioned upon fate of Sunaina's matter.

9. The Writ Petitions are partly allowed. The impugned order which is common in both these petitions is quashed and set aside. The respondent-scrutiny committee shall now issue validity certificates to the petitioners, as early as possible and in any case within two weeks from today. However, such validity certificates would be subject to following conditions :

(a) It would be subject to the decision in the matter of Sunaina Nagnath Bhusanwad;

(b) The petitioners and Sunaina would cooperate the respondent-scrutiny committee in deciding the matter of Sunaina, as expeditiously as possible.

(c) The petitioners shall not be entitled to claim equities and would stand to lose everything if ultimately their validity certificates stand revoked or cancelled.

10. Pending Civil Application No. 5029/2022 in WP 1431/2020 stands disposed of.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

mkd/-