

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

901 WRIT PETITION NO.8218 OF 2020

SADANAND GOVIND KURUKWAD
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioners : Mr. S. R. Barlinge, h/f Mr. O. B. Boinwad.
AGP for Respondent Nos.1 to 3 : Mr. S. G. Karlekar.
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CORAM : RAVINDRA V. GHUGE &
SANJAY A. DESHMUKH, JJ.

DATE : 25th April, 2023.

Per Court:

1. The Petitioner is aggrieved by the order dated 21st November, 2020, passed by Respondent No.2 competent authority, thereby invalidating the tribe claim of the Petitioner of belonging to the “Koli Mahadev” Scheduled Tribe. The impugned order dated 21st November, 2020, is a common order passed in 4 cases inclusive of Kumari Vaibhavi Baburao Kurupwad, Kumari Vaishnavi Baburao Kurupwad and Kumari Rutuja Rajeshwar Kurukwad.

2. The family tree placed before us is skeletal. It is conceded that an extensive family tree is not placed, either before the committee or this Court. It is further admitted that Vaibhavi Baburao carries the surname “Kurupwad”. Her sister, Vaishnavi Baburao also carries the surname “Kurupwad”. The Petitioner and his father carry the surname

“Kurukwad”. The same difference in the surname is noticed in the respective scheduled tribe certificates of Baburao, Vaibhavi, Vaishnavi, as “Kurupwad” and the Petitioner – Sadanand, his father Govindrao, as “Kurukwad”.

3. The learned Advocate for the Petitioner makes a solemn statement as under:-

- a) The Petitioner is the blood relative of Vaishnavi, Vaibhavi, Baburao and Govindrao. Though there is a difference in the surname, they are blood relatives from the paternal side.
- b) Though the judgment of this Court indicates the surname of Vaishnavi and Vaibhavi as “Kurupwad”, Rutuja Rajeshwar and the Petitioner – Sadanand Govindrao carry the surname “Kurukwad”.
- c) If the above contention of the Petitioner turns out to be untrue, this Court may draw a conclusion that the Petitioner has played a fraud on the Court.

4. In view of the above statement, we are proceeding on the premise that the Petitioner – Sadanand is from the branch of Dnyanoba and Vaibhavi and Vaishnavi, are from the branch of

Mahipati. Dnyanoba and Mahipati are said to be biological brothers. The grandson of Dnyanoba is Sadanand, son of Govindrao (Petitioner). Vaishnavi and Vaibhavi, daughters of Baburao, are the great granddaughters of Mahipati, whose 2 sons are Jalbaji and Pralhad. Baburao is the son of Jalbaji.

5. This Court has delivered an order on 18th December, 2020 in Writ Petition No.8343 of 2020 filed by Vaishnavi and Vaibhavi. Following the law laid down in ***Apoorva d/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee, 2010 (6) Mh.L.J. 401***, the claims of Vaishnavi and Vaibhavi have been accepted. They have been granted “Koli Mahadev” Scheduled Tribe validity certificates on the condition that if the cases of any validity holder on whom Vaishnavi and Vaibhavi have relied upon, are re-opened and their claims are rejected, Vaishnavi and Vaibhavi would suffer the same consequences.

6. The learned AGP for the committee submits that the committee has rightly recorded a finding on the basis of contra entries. Rutuja Rajeshwar Kurukwad has also claimed to be a blood relative of Vaishnavi and Vaibhavi. He states that she has also succeeded in this Court vide order dated 8th January, 2021 passed in Writ Petition No.231 of 2021.

7. In *Writ Petition No.5611 of 2018 (Shweta Balaji Isankar Vs. State of Maharashtra and ors)*, this Court has concluded in paragraphs 2 to 4 and 8 as under:-

“2 On the earlier occasion, we found that though the petitioner produced credible evidence in the form of certificates of validity issued to her real uncle Govind Sambhaji Isankar and which concededly has been issued way back on 5th December 2005 and another certificate of validity dated 5th September 2006 to his cousin uncle Ramdas Sambhaji Isankar, the Committee finds that the certificate of validity issued to the real uncle Govind, is not free from suspicion. It is held by the Committee in the impugned order that a notice to show cause has been issued to said Govind on 14th September 2017, calling upon him to show cause as to why this certificate of validity should not be cancelled as its issuance is vitiated by fraud or suppression of material facts by the said Govind.

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 This order does not prevent the Committee from proceeding against Govind in accordance with law and needless to further clarify that in the event Govind's claim is invalidated, all the consequences shall be taken by the petitioner as well."

8. In view of the above, keeping in focus the law laid down in *Apoorva d/o Vinay Nichale* (supra) and *Shweta Balaji Isankar* (supra), **this Petition is partly allowed**. The impugned order dated 21st November, 2020, is quashed and set aside. The committee shall issue a "Koli Mahadev" Scheduled Tribe validity certificate to the Petitioner, within 30 days.

9. Needless to state, in the event of any of the validity holders on whom the Petitioner has placed reliance, suffer reopening of their cases and if the validity certificate issued to such candidates is

recalled and the claim is invalidated, the consequences suffered by the said candidate would also befall upon the present Petitioner and he would also have to suffer the same consequences.

nga [SANJAY A. DESHMUKH, J.]

[RAVINDRA V. GHUGE, J.]