

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

WRIT PETITION NO.9587 OF 2019

Santosh Ram Lolapod

Age : 19 years, Occu : Student,

R/o. At Post : Saikheda,

Tal. Dharmabad, Dist. Nanded

.. Petitioner

Versus

1. The State of Maharashtra
Through its Secretary,
Higher Technical Education Department,
Mantralaya, Mumbai
2. The Committee for Scrutiny and
Verification of Tribe Claims,
Through its Dy. Director (Research),
Aurangabad.
3. The Director of Technical Education
Maharashtra State, 3 Mahapalika Marg,
Mumbai
4. The Commissioner,
State Common Entrance Test Cell,
Maharashtra State, Mumbai
8th Floor, New Excelsior Building,
Fort, Mumbai

.. Respondents

...

AND

WRIT PETITION NO. 9595 OF 2019

Mayuri Ram Lolapod

Age : 23 years Occu : Nil,

R/o. At Post : Saikheda,

Tal. Dharmabad, Dist. Nanded

.. Petitioner

Versus

1. The State of Maharashtra
2. The Committee for Scrutiny and
Verification of Tribe Claims,
Through its Dy. Director (Research),
Aurangabad .. Respondents

...

Advocate for Petitioners in both the matters : Mr. Mahesh S.
Deshmukh i/by. Mr. Arun H. Koralkar

AGP for Respondent / State in both the matters : Mr. S. G. Sangle

Advocate for Respondent No.4 in Writ Petition No.9587 of 2019 :
Mr. S. G. Karlekar

...

CORAM : MANGESH S. PATIL

AND

NEERAJ P. DHOTE, JJ.

DATE : NOVEMBER 04, 2023

PER COURT :

. Heard both the sides finally.

2. Rule. Rule is made returnable forthwith. Learned AGP waives notice on behalf of the respondents / State. At the joint request of the parties, the matter is heard finally at the stage of admission.

3. The petitioners are challenging the order of the respondent - Scrutiny Committee whereby their "Mannervarlu"

Scheduled Tribe Certificates have been confiscated and cancelled under Section 7 (2) of the Maharashtra Act No.XXIII of 2001. The learned advocate for the petitioners points out that there is no dispute about the genealogy. The petitioners' father is a validity holder who was issued validity on the basis of the certificate of validity granted to Madhav who is his second degree, when in fact Madhav was granted validity by virtue of the order passed by this Court in Writ Petition No. 5211 of 2003 dated 25.11.2004. He would therefore submit that till the time the validity is remained in force, the petitioners cannot be deprived of deriving the benefit.

4. The learned advocate Mr. Deshmukh would further submit that the school record of Sayanna Rajanna (grand father of the petitioners) of the year 1951 wherein his caste was recorded to be 'Mannerwarlu', was before the Committee when their father's validation proceeding was pending before the Committee. He was granted certificate of validity by following due process of law. A vigilance was conducted. It is also pointed out that even the Vigilance Officer had reported about the petitioners' father having stood the test of affinity. Based on these circumstances, he was

granted certificate of validity and therefore the petitioners cannot be deprived of deriving the benefits of validity.

5. The learned AGP strongly opposes the petition. He submits that petitioners' father had obtained certificate of validity by resorting to misrepresentation, the record which was revealed during the present vigilance enquiry. Steps are being taken against the officer who conducted the vigilance enquiry in the matter of petitioners' father. Already show cause notice has been issued to the petitioners' father. All the villagers from that village having surname Lolapod which is the surname carried by the petitioners and their family, except the petitioners family no other family with that surname has been recognized as Mannervarlu and in view of such fraud practised by the petitioners' father, they are not entitled to derive the benefit of his validity.

6. To our query as to how independent of the validity of the father, the petitioners can be refused benefit of the validity of Madhav Gangaram Lolapod, who was granted the certificate of validity pursuant to the detailed order passed by this court. He would submit that though the committee has not observed anything in the

impugned order, it is likely to take some decision for applying for the review of the order in the matter of Madhav. He therefore submits that if at all the petitioners claims are to be validated, they may be granted only conditional validity certificates.

7. There is no dispute about the genealogy. One Sayabu was the common ancestor having two sons Sayabu and Rajanna. The petitioners are the great grandchildren of Rajanna, whereas Madhav is the grandson of Sayabu. Admittedly, Madhav was granted certificate of validity pursuant to the order of this court passed in the year 2004. Till date the order has not been challenged. The present committee was also alive to the fact that Madhav was granted certificate of validity and obviously must be aware that it was granted pursuant to the order of this court. Still the impugned order does not assign any reason as to why Madhav's validity cannot enure to the benefit of the petitioners.

8. If this is so, irrespective of the fact as to how petitioners father had obtained certificate of validity, either by resorting to fraud or otherwise, would be inconsequential, when Madhav is from the

blood relation of the petitioners from paternal side possesses a certificate of validity issued by following due process of law. In the light of the decision in the matter of **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti vs. State of Maharashtra and Ors., 2023 SCC Online SC 326**, the petitioners are entitled to derive the benefit irrespective of any other contrary record or circumstance relied upon by the committee while passing the impugned order.

9. Though the learned AGP submits that the committee is considering filing of a review petition in respect of the order of this Court passed in Madhav's matter and only conditional certificate should be directed to be issued to the petitioners, we are not inclined to follow that course. Apart from the fact that the impugned order does not mention anything as to how the Committee wants to take exception to the validity of Madhav, Madhav's order was passed in the year 2004, impugned order was passed in the year 2019 and we are at the end of year 2023. In view of these facts, in our considered view, the request of the learned AGP to direct issuance of the certificate of validity only conditionally cannot be accepted. Needless

to state that the law will take its own course if and when the committee decides to prefer a review petition in respect of Madhav.

10. In view of above, we proceed to pass the following order.

ORDER

- (i) The Writ Petitions are allowed.
- (ii) The impugned Judgment and Order dated 04.07.2019 passed by the Scrutiny Committee, is quashed and set aside.
- (iii) The Scrutiny Committee shall immediately issue certificates of tribe validity to the petitioners of “Mannervarlu” Scheduled Tribe.
- (iv) Rule is made absolute in above terms.

[NEERAJ P. DHOTE, J.]

[MANGESH S. PATIL, J.]

GGP