

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

WRIT PETITION NO. 9531 OF 2023

- 1) Vedant Ratan Buchalwar
- 2) Sudhakar Ramesh Buchalwar
- 3) Gajanan Buchanna Buchalwar
- 4) Rakshanda D/o Buchanna Buchalwar ... Petitioners

VERSUS

- 1] The State of Maharashtra
through Principal Secretary,
Tribal Development Department,
Mantralaya, Mumbai – 32.
- 2] Scheduled Tribe Certificate
Scrutiny Committee, Kinwat
Headquarter at Aurangabad
Dist. Aurangabad through
its Member Secretary ... Respondents

...
Advocate for the Petitioners : Mr. S.S. Phatale
A.G.P. for the Respondents/State : Mr. S.G. Sangle
...

**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**
DATE : 09.08.2023

ORAL ORDER (MANGESH S. PATIL, J.) :

Heard learned advocate for the petitioners and the learned AGP.

2. The petitioners are challenging the invalidation at the hands of the respondent – scrutiny committee which has confiscated and cancelled their tribe certificates as belonging to Mannervarlu scheduled tribe.

3. The learned advocate for the petitioners submits that apart from petitioner no.1's father – Ratan, Ratan's real brother Buchanna and distant cousin Krishna are the validity holders, *albeit*, Krishna has been granted validity by this Court which has been made conditional upon the outcome of the matters which the committee had expressed intention to re-open.

4. The petitioners are ready to run the risk of even their validity certificates getting confiscated and cancelled if and when the committee takes the re-opened matters to the logical end and cancels the certificates of validity of Ratan and Buchanna.

5. The learned AGP submits that Buchanna had obtained validity by practising fraud. His claim was already invalidated. However, ignoring that fact, his employer transmitted the certificate again for validation and the committee was oblivious of the earlier invalidation and granted him the validity. Since Buchanna's validity certificate is the basis for grant of validities to petitioner no.1's father Ratan and Krishna, the petitioners cannot be allowed to take benefit of validities of even Ratan and Krishna.

6. We have carefully considered the rival submissions and perused the papers.

7. It is a matter of record that Buchanna's claim was already invalidated and the decision had reached finality meaning thereby that his certificate was confiscated and cancelled. If such was the state-of-affair, merely because the employer had subsequently transmitted the certificate for

validation again to the committee and the committee had granted him the validity certificate, in our considered view, the invalidation resulting in confiscation and cancellation of the tribe certificate having reached finality, there was no certificate which could have been subjected to a fresh scrutiny in a proceeding under section 6 of the Maharashtra Act no. XXIII of 2001. It is apparent that subsequent committee was oblivious of the earlier invalidation and it had taken the decision which according to us, stands vitiated and is *void ab initio* since there was no tribe certificate in existence which could have been verified by the committee.

8. It is apparent that Ratan as well as Krishna have been granted validities by relying upon the validity certificate of Buchanna. However, we have gone through the original order passed in the matter of Ratan and find that though Buchanna's validation was produced to substantiate the claim, that was not the only document. The committee had simultaneously relied on few other documents while granting validity certificate to Ratan. Therefore, validity granted to him will not be vitiated simply by pointing out the afore-mentioned circumstances which renders Buchanna's validity certificate null and void.

9. True it is, the committee has observed that few other invalidities of the family members were not disclosed, however, in our considered view, petitioners not being party to those enquiries, cannot be fastened with any liability in the form of orders passed therein. Those decisions would operate in *personam* and would not bind petitioners. Merely because some of the

family members failed to substantiate the claim that will not preclude other family members from leading cogent and convincing evidence sufficient for the committee to grant the validity. Therefore, this circumstance, in our considered view, of non-disclosure of invalidity will not vitiate the petitioners' claims.

10. Since this Court has also granted conditional validity to Krishna who is the blood relation from the paternal relation and when there is no dispute about the relationship or the genealogy even the petitioners would be entitled to similar validities which can be made subject to the final outcome of the re-opened matters, more so, when the petitioners are ready to run the risk.

11. Hence, the following order :-

ORDER

I) The writ petition is partly allowed. The impugned order is quashed and set aside. The respondent - committee shall immediately issue tribe validity certificates to the petitioners as belonging to '*Mannervarlu*' scheduled tribe in the prescribed format without adding anything. The validities shall be subject to the final outcome of the matters which the committee has decided to re-open.

II) The petitioners shall not be entitled to claim equities.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

arp/-