

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

WRIT PETITION NO.9373 OF 2023

1. Ajitkumar S/o Maroti Markawad
2. Saloni Balaji Marakwad ... **PETITIONERS**

VERSUS

1. The State of Maharashtra
Tribal Development Department
through its Secretary,
Mantralaya, Mumbai-400 001.
2. Scheduled Tribe Certificate
Scrutiny Committee, Kinwat
Office at Aurangabad
through its Member Secretary ... **RESPONDENTS**

...

Advocate for Petitioners : Mr. Sagar S. Phatale
A.G.P for respondents : Mr. S.G. Sangale

...

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

DATE : 01.08.2023

ORDER (MANGESH S. PATIL, J.) :

Heard both the sides finally.

2. Since the petitioners have appeared for MHT-CET-2023 and is to take admission from reserved category, we have taken up this matter urgently for final disposal with the consent of both the sides.

3. The petitioners are challenging the order passed by the respondent – Scrutiny Committee invalidating their tribe claim as belonging to ‘Mannervarlu’ scheduled tribe.

4. We have heard both the sides and perused the record.
5. The petitioners are heavily relying upon the validity certificates of Sumedha Marotirao Marakwad who is the real sister of petitioner No.1 - Ajitkumar and first degree cousin of petitioner No.2 – Saloni. Pertinently, she was granted validity certificate by an order passed by this Court in Writ Petition No.8944/2018 dated 03.08.2018. Petitioners are also relying upon the validity of Maroti Markawad who is Ajitkumar's father and Saloni's paternal uncle issued on 07.02.2007. Apart from that admittedly, petitioners' another uncle Sanjay Markawad, cousin paternal aunt Arti Marakwad have also been issued with validity certificates by the order of the then scrutiny committee, on 22.06.2006 and 15.09.2005. The Committee has refused to extend the benefits of these validities on the ground that those were issued concealing the contrary entries of the ancestors in the school record describing them as 'Munurvad'. In our considered view, when the Committee has decided to invoke powers of review as observed in the matter of **Jyoti Sheshrao Mupde Vs. State of Maharashtra and Ors.; Writ Petition No.1954/2009** on the ground of alleged fraud, we should stay our hands off from making any observation pertaining to the circumstances which according to the Committee constitute fraud. The validity holders are not before us and we cannot make any observation which would put them to some prejudice. It would always be open for the Committee to undertake that scrutiny.
6. We are concerned with the fact that there are several validity

holders in the family who are blood relations from the paternal side of the petitioner which are in existence for last more than 15 years, so long as these validity certificates are not confiscated and cancelled by resorting to the due process of law, the petitioners cannot be deprived of the benefit of at least having conditional validity.

7. The writ petition is partly allowed. The impugned order is quashed and set aside. The committee shall immediately issue tribe validity certificates to the petitioners as belonging to "Mannervarlu" scheduled tribe, which shall be subject to the decision to be taken by the Committee in the reopened matters.

8. The petitioners shall not be entitled to claim equities.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)