

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

WRIT PETITION NO. 9591 OF 2023

- 1) Kavita D/o Ramlu Alure
 - 2) Priti D/o Balajirao Aloore
 - 3) Usha D/o Laxman Alure
all r/o. Daregaonm Tq. Degloor,
Dist. Nanded.
- ... **Petitioners**

VERSUS

- 1) The State of Maharashtra
 - 2) The Scheduled Tribe Certificate
Scrutiny Committee Kinwat, Office
at Aurangabad, through its Member Secretary
- ... **Respondents**

...

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

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

DATE : **07.08.2023**

PER COURT :

Heard the learned advocate for the petitioner and the learned A.G.P. and perused the original record of the respondent-scrutiny committee even in the matter of Nandu Gangaram Alure who is a validity holder and is a real paternal uncle of these petitioners.

2. The petitioners are challenging the order passed by the respondent no.2-scrutiny committee invalidating their tribe claims and confiscating and cancelling their certificates of '*Mannervarlu*' scheduled tribe.

3. The learned advocate for the petitioners submits that apart from Nandu Gangaram, petitioner No. 1 Kavita's real sister Sunita, their father Ramlu have been granted validity certificates. The other petitioners being

first degree cousins of Kavita, all of them are entitled to have validity certificates.

4. The learned A.G.P. submits that there are several contrary entries indicating that the family members of the petitioners have been described as either '*Mannervad*' or '*Mannervar*'. Even some forgeries were noticed in the school record of petitioners blood relations. It is a clear case of fraud. The petitioners have been conveniently denying the relationship with the persons whose record was found to be adverse to their claim. There was a statement of petitioners grand father Gangaram recorded in the matter of Nandu and in the presence of latter wherein Gangaram had admitted the genealogy prepared by the vigilance officer showing the parallel branches originating from common ancestor Iranna whose adverse and contrary record has been relied upon by the committee in refusing to grant validity certificate to them.

5. The learned A.G.P. would further submit that the committee has decided to undertake a fresh enquiry in the matter of validity holder Nandu and a notice would be issued.

6. We have carefully considered the rival submissions. It does appear that the petitioners have been taking a convenient stand depending upon the circumstances. Though their grand father Gangaram in his statement recorded in presence of his son Nandu who happens to be paternal uncle of the petitioners has admitted the relationship with several other blood relations originating from the common ancestor Iranna Ramanna Alure, the petitioners are denying the relationship for the obvious reason that the committee could trace few adverse entries in the form of school record of some of these blood relations appearing as '*Mannervad*' or '*Mannervar*' which are distinct from '*Mannervarlu*' scheduled tribe.

7. However, once it is noticed that all this record was available to be accessed by the then committee which still granted validity certificate to

Nandu Gangaram Alure, so long as it is not confiscated and cancelled by resorting to section 7(1) of the Maharashtra Act XXIII of 2001, the petitioner cannot be deprived of the benefit as laid down in the matter of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others; 2023 SCC Online SC 326***.

8. The committee has refused to extend the benefit of Nandu's validity to the petitioner on the ground that the orders were passed in the matters of Nandu and other validity holders which were not reasoned orders. However, we have confirmed by examining the order from Nandu's file that it was indeed a speaking order. Number of record was examined by the then scrutiny committee apart from having undertaken a vigilance enquiry. The observation of the committee, therefore, in the matter in hand that that order was a non speaking order is perverse.

9. As laid down in the matter of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti (supra)*** so long as the validity holders have been issued certificates by following procedure and in accordance with law, its benefit has to be extended to the blood relations from the paternal side.

10. Even if the committee now entertains a doubt and also attributes some circumstances which according to it constitute fraud, in our view, the committee cannot now question the procedure followed by the then committee while issuing validity certificate to Nandu. It appears that the procedure as prescribed by law was duly followed by the then committee while granting validity certificate to Nandu. Even if the committee intends to now confiscate and cancel his certificate, it will have to resort to a fresh procedure under Section 7(1) of the Act without which the petitioners cannot be deprived of the benefit of having conditional validities.

11. The writ petition is partly allowed. The impugned order is quashed and set aside. The respondent No. 2-committee shall immediately issue tribe validity certificates to the petitioners as belonging to 'Mannervarlu'

scheduled tribe, which shall be subject to final outcome of the matter to be reopened by the committee in respect of the validity holder Nandu Ramlu Alure.

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

13. The petitioners and their blood relations shall cooperate the committee in early decision of the matter which has already been reopened and the committee shall conclude it within six months.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

mkd/-