

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

WRIT PETITION NO. 9662 OF 2023

1. Gagankumar Sayanna Mokmod
Age : 25 years, Occ. : Student
2. Jagankumar Sayanna Mokmod
Age : 23 years, Occ. : Student
3. Prashant Narsimalu Mokmod
Age : 28 years, Occ. : Student
4. Vinit Narsimalu Mokmod
Age : 26 years, Occ. : Student

All R/o. Yetala, Tq. Dharmabad,
Dist. Nanded.

... Petitioners

Versus

1. The State of Maharashtra,
Through its Secretary,
Tribal Development Department, Mumbai.
2. The Scheduled Tribe Certificate Verification
Committee, Kinvat, Head Quarter, Aurangabad.
Through its Deputy Director (R).
3. The Dean/Principal,
Topiwalla National Medical College,
Mumbai Central, Mumbai.
4. The Dean/Principal,
Vilasrao Deshmukh Government Medical College, Latur.
5. The Registrar,
Maharashtra University of Health Science,
Vani Dindori Road, Nashik.

... Respondents

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Advocate for Petitioner : Mr. Pratap V. Jadhavar
 Addl. GP for Respondents/State : Mrs. M. A. Deshpande

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

DATE : 08 AUGUST 2023.

PER COURT :

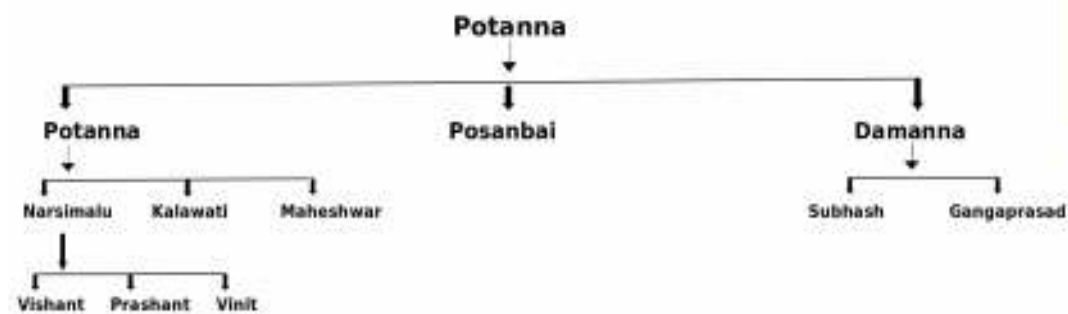
Heard the learned Advocate for the petitioners and the learned AGP. Perused the original files of the validity holders, Gangaprasad Damanna Mokmod; Shamsundar Potanna Mokmod and Gaganprasad Sayanna Mokmod.

2. The petitioners are challenging the common order dated 28.07.2023 passed by the respondent no.2/Scrutiny Committee in their respective proposals whereby their tribe certificates as belonging to Mannernvarlu have been confiscated and cancelled by the Committee under Section 7(1) of the Maharashtra Act No. XXIII of 2001.

3. An affidavit of Gangaprasad Damanna Mokmod, who is a validity holder has been tendered across the bar. He has given following genealogy :



4. Pertinently this is the same genealogy being relied upon by the parties all throughout since inception. However pertinently, in the matter of Gangaprasad, his father Damanna's statement was recorded on 04.01.2008. It is to be noted that s genealogy has been prepared by the Vigilance Officer based on the affidavits of Damanna and his son Gangaprasad, which is as follows :



5. If the two genealogies are compared in just in position with the statement of Damanna as well as Gangaprasad recorded in his own file, both of them had stated that Damanna had one brother by name Potanna and one sister by name Posanbai. However, as can be seen from the first genealogy reproduced herein above, even a branch of grandfather of the petitioner no.1 and 2, Linganna has come up. Even one more brother by name Potanna has come up. If such is the state of affairs, it is apparently clear that Gangaprasad and his brother Subhash, both whom have obtained validities and particularly Gangaprasad who has filed affidavit in this Court as per the directions, are coming with a drastically different genealogy and the petitioner no. 1 and 2 are seeking to derive the benefit. We are aware that this is not an

adversarial litigation. We are only pointing out the aforementioned aspects because, number of fraudulent claims can be made if no minute scrutiny is undertaken in respect of such claims. If Damanna has been consistently saying as was said by Gangaprasad during his own validity proceeding that Damanna has only brother by name Potanna and one Sister by name Posaibai, a genealogy showing two Potannas and their successors and another brother Linganna and his own successors is indeed highly suspicious and makes the case of petitioner no.1 and 2 vulnerable, since they are claiming to be grandsons of Linganna.

6. When we pointed out this aspect and the drastic difference in the genealogies, the learned Advocate for the petitioners submits that the matter may be remanded to the Committee and an opportunity may be extended to the petitioner no.1 and 2 to once again substantiate their stand particularly to demonstrate that they are the persons from the blood relations and belong to the genealogy of which Potanna Narsimallu Mokmod was the common ancestor.

7. So far as petitioner no.3 and 4 are concerned there cannot be any dispute and even the Committee has not entertained any doubt about them being the grandsons of Potanna who was real brother of Damanna. Since Gangaprasad Damanna and Subhash Damanna both are having validity certificates, the petitioner no.3 and 4 are entitled to have a similar validity.

8. In view of above, the writ petition is partly allowed as under :

(i) The impugned order dated 28.07.2023 passed by respondent no.2 /Scrutiny Committee is quashed and set aside to the extent of Petitioner no. 3 and 4.

(ii) The Committee shall immediately issue tribe validity certificate to the petitioner no.3/Prashant Narsimalu Mokmod and petitioner no.4/Vinit Narsimalu Mokmod as belonging to 'Mannervarlu' scheduled tribe, which shall be subject to the decision to be taken by the Committee in the matters which it intends to reopen in respect of the validity holders.

(iii) The petitioner no.3 and 4 shall not be entitled to claim equities.

(iv) As far as the petitioner no. 1 and 2 are concerned namely Gagankumar Sayanna Mokmod and Jagankumar Sayanna Mokmod, the matter is remanded back to the Committee for decision afresh by extending opportunity to them to lead evidence. It would be open for the Committee to resort to the vigilance enquiry as well.

(v) The petitioner no.1 and 2 shall appear before the Committee on 21.08.2023. The decision shall be taken as expeditiously as possible and in any case within six months.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]