

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

WRIT PETITION NO.9813 OF 2023

1. Kum. Tejaswi d/o Shensing Manza
2. Kum. Kanchan d/o Santosh Manza ... **PETITIONERS**

VERSUS

- | | | |
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| 1. | The State of Maharashtra,
through its Secretary for
Tribal Development Department,
Maharashtra State,
Mantralaya, Mumbai | |
| 2. | The Scheduled Tribe Scrutiny
Committee Aurangabad Division
Aurangabad through its Secretary | ... RESPONDENTS |

Advocate for Petitioners : Mr. V.D. Hon, Senior Advocate i/b. Mr. A.V. Hon
A.G.P for respondents/State : Mr. A.S. Shinde

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

DATE : 09.08.2023

ORDER (MANGESH S. PATIL, J.) :

Petitioners are challenging the order passed by the respondent Scrutiny Committee, thereby, confiscating and cancelling their tribe certificates as belonging to 'Naikada' scheduled tribe.

2. Since the petitioner No.1 is seeking admission through NEET-UG-2023 and the last date for uploading the document is today and the petitioner No.2 is also aspiring to get admission for B.D.S., the matter is taken up for final disposal at admission stage with the consent of both the sides.

3. The learned Senior advocate for the petitioners would submit that the petitioners are seeking to derive the benefit of several validity holders in the family. Kanchan's cousin paternal uncles Hirasing Tarasing Manza and Javansing Tarasing Manza, a real uncle Gajanan Chandrabhan Manza, her cousin paternal uncles Ishwarsing Raibhan Manza, Shensing Raibhan Manza who happens to be the father of the petitioner Tejasvi. Ramesh Raibhan Manza, Ganesh Raibhan Manza and Sanjay Raibhan Manza have all been issued with validity certificates. In fact, on a complaint of an individual a challenge was put up to the validity of Ishwarsing Raibhan Manza. The Committee had issued a notice to him. It also resorted to a vigilance inquiry. However, subsequently dropped that proceeding and recalled the notice issued to him. Pertinently, Ishwarsing had challenged that show cause notice in Writ Petition No.5423/2013 and since the notice itself was recalled by the Committee the writ petition was disposed of. He would submit that in view of such circumstance, wherein, the Committee had resorted to a fresh investigation but has ultimately decided to drop the proceeding against Ishwarsing who is the validity holder, the petitioners' cannot be denied the benefit being his blood relations from the paternal side.

4. The learned AGP would submit that the entire school record of several validity holders and their blood relations of a specific school was turned out to be manipulated. There were several erasures and inquiry was constituted and the entries were found to be bogus and forged one. These

validity holders had derived the benefit of such forgery and the petitioners cannot be granted the benefit.

5. Learned AGP would also submit that several contrary record was concealed from the then committees while obtaining the validity certificates. The petitioners had failed to prove that they had migrated from the original place of abode of 'Naikada' tribe. They also could not stand the affinity test and no fault has been committed by the Committee in rejecting their claims.

6. As far as the observations of the alleged concealment and fraud are concerned, the Committee has expressed its intention to undertake a reverification/review. We do not intend to comment on the powers of the Committee to undertake such review or reopen the inquiries. Even if it has such a power, we do not intend to make any observations touching the circumstances which according to the Committee constitute fraud for two reasons. Since it is an issue which is directly and substantially under consideration of the Scrutiny Committee we cannot make any observation which could have some bearing on that inquiry. Secondly, the validity holders are not before us, therefore, we also do not intend to cause any prejudice to them by making certain observations by touching the alleged fraud. We leave it at that.

7. Therefore, so long as the validity certificates of these many validity holders as mentioned herein above, are not confiscated and cancelled by following due procedure of law, it would cause a serious

prejudice to the petitioners if they are not allowed to take the benefit of these validities. Since the learned Senior advocate Mr. Hon for the petitioners submits that the petitioners are ready to run the risk of having a conditional validities inasmuch as the committee now intends to reopen the validities granted to several blood relations, we found no reason not to concede to the request. The petitioners would suffer the consequences as contemplated in **Shweta Balaji Isankar Vs. State of Maharashtra and Ors.;** (Writ Petition No.5611/2018).

8. 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 'Naikada' 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.

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

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)