

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

WRIT PETITION NO. 9833 OF 2023

Sneha D/o Suryakant Bondle
Age : 20 years, Occu. Education,
R/o. Ghungrala, Tq. Naigaon (Kh),
Dist. Nanded
Through power of attorney holder
Suryakant S/o Jalba Bondle
Age 49 years, Occu. Service
R/o. As above

... Petitioner

VERSUS

1] The State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai

2] The Scheduled Tribe Caste Certificate
Verification Committee Kinwat at Aurangabad
Through its Dy. Director (R),
Dist. Aurangabad

... Respondents

...
Advocate for the Petitioner : Mr. S.M. Vibhute
A.G.P. for the Respondents/State : Mr. S.K. Tambe

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

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

Leave granted to amend the petition.

2. In fact, the petition was filed on the ground that the petitioner's matter was not being decided by the Scrutiny Committee. Yesterday, we had recorded statement of the learned AGP that the final order would be passed by today. Accordingly, a copy of the order is tendered before us around 5:45 pm. The committee has confiscated and cancelled the petitioner's tribe certificate of Mannervarlu scheduled tribe.

3. Leave is granted to amend the petition to challenge the order. Amendment to be carried out forthwith.

4. Rule. Rule is made returnable forthwith. Learned AGP waives service. With the consent of both the sides, considering the fact that the petitioner has to submit the documents to the allotted college today by 5:30 pm, which time is already over, we have taken up the matter for final disposal, with a hope that if we allow the petition she could still get some grace time.

5. The learned advocate for the petitioner would point out that there are several validities in the family. Even this Court has granted conditional validity to cousin Madhura Nagesh Bondle in writ petition no. 71 of 2022. He would submit that the committee has refused to give weightage to all these validities without assigning sound and convincing reasons. If at all the committee now harbours same view about earlier validities being obtained by resorting to misrepresentation or fraud, so long as the committee does not undertake the enquiry and take it to the logical conclusion, the petitioner cannot be deprived from deriving the benefit of multiple validities in the family, more so when the committee has not expressed any view about the petitioner is in blood relation with these validity holders from the paternal side.

6. The learned AGP opposes the petition. He points out that the petitioner had failed to place on record the validity certificates and the affidavits of the validity holders. The committee had to undertake a search and trace out the files of the validity holders. It has objectively scrutinized the validities and has found that the validities were issued labouring under the misrepresentation practised by the the petitioner and her family members wherein they had failed to disclose several contrary entries.

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

8. Admittedly, even the impugned judgment refers to, there are several validity holders in the family. Needless to state that unless those certificates are confiscated and cancelled by following due process of law as contemplated under section 7(1) of the Maharashtra Act no. XXIII of 2001, the validity certificates will hold good and the blood relations would be entitled to derive the benefit as has been laid down in the matters of ***Apoorva D/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee no. 1 and others; 2010 (6) Mh.L.J. 401*** and ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others; 2023 SCC Online SC 326***.

9. Though the committee has in detail discussed the circumstances which according to it constitute misrepresentation or fraud, we cannot undertake that enquiry much less record any finding which can only be rendered in the matters which the committee has intended to re-open. The validity holders are not before us. We cannot make any observations which would put them to some prejudice.

10. 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 the tribe validity certificate to the petitioner as belonging to 'Mannervarlu' scheduled tribe in the prescribed format without adding anything. The validity shall be subject to the final outcome of the matters which the committee has decided to re-open.

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

III) Petitioner and her relatives shall co-operate the committee in early decision of the re-opened matters which shall be concluded within six months.

IV) The learned AGP shall immediately communicate this order to the committee.

V) Rule is made absolute accordingly.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

arp/-