

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10577 OF 2023

Sakshi D/o Sanjay Kalewad

...Petitioner

VERSUS

1] The State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai – 32

2] The Scheduled Tribe Certificate
Scrutiny Committee,
Kinwat Division, Aurangabad
Through its Member Secretary

...Respondents

...

Advocate for Petitioner : Mr. A.S. Golegaonkar h/f Mr.Madhur A. Golegaonkar
AGP for Respondents/State : Mr. S.G. Sangale

...

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

DATE : 28 AUGUST 2023

ORDER (MANGESH S. PATIL, J.) :

The petitioner is challenging invalidation.

2. Considering the urgency, at the joint request of the parties,
the matter is heard finally at the stage of admission.

3. Though the committee has assigned sufficient reasons and
claims that there are sufficient contrary entries, admittedly,
simultaneously, there are several validity holders in the family. The
first validity in the family was granted to one Kashiram Manikrao

Kalewad way back on 24-11-1997. Since thereafter, there are more than 10 validities in the family. The committee has in an omnibus manner observed that those validities were obtained by practising fraud. Some of those were granted by the committee headed by V.S. Patil whereas in respect of some others, the composition of the committee was not legally proper.

4. The committee has questioned the composition of the then committee which decided the matter of one of the validity holders. In our considered view, a successor committee cannot question such composition more so when according to rule 9(3), the decision of the committee which comprises of three members can be by majority. In that matter, there was no dispute about the eligibility of the other two members and consequently, this ground will not be sustainable.

5. We do not intend to make any comment on the aspect of the powers of the committee to undertake a review and the facts which according to the committee constitute fraud or misrepresentation. We are doing so for two reasons; firstly, the validity holders are not before us and we do not intend to cause any prejudice to them by making observations in this matter behind their back and secondly, any observation made by us could have a bearing on the matters which the committee has decided to re-open.

6. Even if the committee has decided to re-open the validation, till the time those certificates are not confiscated and cancelled, the petitioners, in our considered view, cannot be refused the benefit of having a certificate of validity when she is ready to suffer the consequences in view of the decision in the matter of ***Shweta Balaji Isankar Vs. State of Maharashtra and others (writ petition no. 6320 of 2017)***.

7. Hence, the following order:-

(i) The writ petition is partly allowed.

(ii) The impugned order dated 21.07.2023 passed by the respondent no.2/Scrutiny Committee is quashed and set aside. The Scrutiny Committee shall immediately issue tribe validity certificate to the petitioner as belonging to 'Mannervarlu' scheduled tribe.

(iii) It shall be subject to the decision/outcome in the matters to be reopened by the Committee of the validity holders.

(iv) The certificate of validity shall be issued in the prescribed format without incorporating other conditions/additions.

(v) Considering the fact that tomorrow is the last date for submitting certificate of validity and since the matter is being heard and decided urgently, we request the learned AGP to communicate this

order to the Committee immediately, since the law officer of the Committee is present in this Court.

(vi) The petitioner shall not be entitled to claim equities.

(vii) The petitioner shall cooperate with the Scrutiny Committee in early disposal of the reopened matters.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/