

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9968 OF 2023

1. Shridhar s/o Pundlik Pujarwad
2. Rushikesh s/o Ramlu Pujarwad
3. Suryakant Hanmantrao Pujarwad ... Petitioners

Versus

The State of Maharashtra and Others ... Respondents

WITH

**CIVIL APPLICATION STAMP NO. 25096 OF 2023 IN
WRIT PETITION NO. 9968 OF 2023**

Organization for the Rights of the Tribals
Branch at Aurangabad. ... Applicant

Versus

1. Shridhar s/o Pundlik Pujarwad
2. The State of Maharashtra,
Through its Secretary ... Respondents

...

Advocate for Petitioner : Mr. Phatale Sagar S.
AGP for Respondents/State : Mr. S.G. Sangale
Advocate for the Applicant in CA : Mr. S.N. Lale Yelwatkar

...

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

DATE : 10 AUGUST 2023

ORDER (MANGESH S. PATIL, J.) :

Considering the fact that the petitioners are participating in the current admission process through MHT-CET-2023, the matter is taken up for final disposal at the admission stage.

2. The petitioners are challenging the common order passed by the respondent - scrutiny committee in a proceeding under section 6 of the Maharashtra Act no. XXIII of 2001 (**Act**), thereby confiscating and cancelling their tribe certificates of Mannervarlu scheduled tribe.

3. Considering the urgency inasmuch as the petitioner no. 1 is seeking admission through MHT-CET-2023 and has been allotted college in the first round wants a certificate of validity latest by 16 August 2023, the matter is taken up for final adjudication at the admission stage.

4. The learned advocate for the petitioners submits that the petitioner no. 1's father Pundlik and his real sister - Vaishnavi are validity holders. Similarly his real paternal uncles - Laxman Shivaji and Ramu are also the validity holders. He would submit that a thorough vigilance enquiry was conducted in the matter of Laxman in the year 2007 and he was granted the validity. Even if the committee now entertains some doubt and also alleges that the validity holders had obtained certificates of validity by resorting to fraud and misrepresentation, till the time the certificates of validity are not confiscated and cancelled following the due process of law, the petitioners cannot be deprived of the benefit more so when the petitioners' real sister - Vaishnavi has been granted a conditional

validity by the order of this Court in writ petition no. 7463 of 2018 dated 23-07-2018.

5. The learned AGP opposes the petition on the ground that there are several contrary entries in the school and revenue record which were never disclosed to the committee by the previous validity holders and their certificates of validity stand vitiated by fraud. The committee has decided to undertake a review.

6. We have considered the rival submissions.

7. 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.

8. The committee has thereafter 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.

9. In view of above, if the petitioners in our considered view are entitled to derive the benefit of the validity in the family obviously subject to the final outcome of the matters to be re-opened by the committee.

10. Hence, the following order :-

ORDER

(i) The writ petition is partly allowed.

(ii) The impugned order dated 08.08.2023 passed by the respondent no.2/Scrutiny Committee is quashed and set aside.

(iii) The Committee shall issue tribe validity certificates to the petitioners as belonging to 'Mannervarlu' scheduled tribe by tomorrow.

(iv) The validity certificates shall be subject to the final decision to be taken by the Committee in the reopened matters.

(v) The certificates of validity shall be issued in the prescribed format without incorporating any other conditions/additions.

- (vi) The petitioners shall not be entitled to claim equities.
- (vii) Pending application for intervention is disposed of.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/