

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

911 WRIT PETITION NO.4463 OF 2020

Krishna s/o Gangadhar Gurle
Age minor, Occ Education
R/o. Samarth Nagar, Bhagyanagar Road,
Near Hanuman Temple, Taroda, Nanded,
Tq. and District Nanded
Through father & natural guardian
Gangadhar s/o Vishwanathrao Gurle
Age 54 years, Occ. Service
R/o. As above

...Petitioner

Versus

1. The State of Maharashtra
Through Secretary
Higher and Technical Education
Department, Mantralaya,
Mumbai
2. The Scheduled Tribe Caste Certificate
Verification Committee Aurangabad,
Through its Dy. Director (R),
Aurangabad, District Aurangabad
3. The Commissioner & Competent Authority,
Commissionerate of Common Entrance
Test Cell, Government of
Maharashtra, 8th Floor,
New Excelsior Building,
A.K. Naik Marg, Fort
Mumbai

...Respondents

AND

912 WRIT PETITION NO.9207 OF 2021
WITH CA/3454/2023 IN WP/9207/2021

Pooja d/o Gangadhar Gurle
age 24 years, Occ. Education
R/o. Godavari Niwas, Samarth Nagar
Nanded, Tq. & Dist. Nanded

...Petitioner

Versus

1. The State of Maharashtra
Through Secretary
Medical Education and Drugs Department
Mantralaya, Mumbai
 2. The Scheduled Tribe Caste Certificate
Verification Committee Aurangabad,
Through its Dy. Director (R),
Aurangabad.
 3. The Dean,
Pandit Dindayal Upadhyay
Dental College, Kegaon
Solapur Dist. Solapur.
 4. The Registrar,
Maharashtra University of Health
Sciences, Dindori Road,
Mhasrul/Nashik.
District Nashik
- ...Respondents

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 Advocate for Petitioners : Mr. Sunil M. Vibhute
 AGP for Respondent Nos. 1 and 2 : Mr. P.S. Patil
 Advocate for Respondent No.4 (WP No. 9207/2021) : Mr. S.B. Patil
 Advocate for applicant in C.A. No. 3454 of 2023 : Mr. Y.B. Bolkar h/f
 Mr. A.B. Girase

**CORAM : RAVINDRA V. GHUGE AND
 SANJAY A. DESHMUKH, JJ.
 DATED : 14th MARCH, 2023.**

JUDGMENT (Per Ravindra V Ghuge, J.)

1. Rule. Rule made returnable forthwith and heard finally
with the consent of the Parties.

2. The Petitioner in Writ Petition No. 4463 of 2020, Krishna
s/o Gangadhar Gurle and the Petitioner in Writ Petition No. 9207 of

2021, Pooja d/o Gangadhar Gurle, are siblings. Both are aggrieved by the orders of the committee, dated 1.8.2019, passed in the case of the Petitioner in the first Petition and dated 25.6.2021, passed in the case of the Petitioner in the second petition. The first order dated 1.8.2019 is a common order for Krishna as well as Shruti and Tejaswini Gurle. By judgment and order dated 20.8.2019, passed at the Principal Seat, in Writ Petition No. 9076 of 2019, the claim of Tejaswini has been conditionally allowed and the impugned order dated 1.8.2019 has been quashed and set aside. Subsequently, by order dated 20.1.2022, passed in writ Petition No. 3868 of 2020, at Aurangabad, the claim of Shruti has been conditionally allowed.

3. The learned A.G.P. has strenuously opposed both these Petitions and has submitted that there are several contra entries and evidence, which contradict the claim of these Petitioners. The High Court has granted conditional validity certificates to several blood relatives of the Petitioners. The possibility of reopening of the cases cannot be ruled out.

4. We have perused the family tree of these Petitioners. The oldest person in the family tree is Kondiba Hulaji Gurle, their great grandfather. He had 11 children. One of his children, Ramesh has been granted a validity certificate. The grandchild of Ramesh's biological brother Murli i.e. Pratik s/o Uddhav, has been granted a validity certificate by this court at Aurangabad, vide order dated

2.1.2023, in writ Petition No.2225 of 2022. These two Petitioners are the children of Gangadhar Gurle, who has a validity certificate. Gangadhar is son of Vishwanath and grandson of Kondiba. Vishwanath is the biological brother of Murli and Ramesh. The biological brother of Gangadhar is Babasaheb, who has a validity certificate. His daughters Shubhangi and Shruti have been granted validity certificates by the High Court. Tejaswini, who is daughter of Suresh (biological brother of Gangadhar and Babasaheb) has been granted a validity certificate by the High Court. Bharat and Balaji, who are sons of Manchak, have been granted validity certificates. Manchak is son of Kondiba and biological brother of Vishwanath, Murli and Ramesh.

5. Taking into account the above fact situation, it is apparent that the law laid down by this Court in ***Apoorva d/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee, 2010 (6) Mh.L.J. 401***, is applicable. So also the contention of the learned A.G.P. that there is a possibility of reopening of cases, cannot be ignored. We, therefore, would balance the equities by relying upon the law laid down by this Court (Coram : S. C. Dharmadhikari and Smt. Bharati H. Dangre, JJ.), at the Principal Seat, in ***WP No.5611/2018 (Shweta Balaji Isankar Vs. State of Maharashtra and Others)***, in which this Court, in paragraphs 2 to 4 and 8, held as under:-

“2 On the earlier occasion, we found that though the petitioner produced credible evidence in the form of certificates of validity issued to her real uncle Govind Sambhaji Isankar and which concededly has been issued way back on 5th December 2005 and another certificate of validity dated 5th September 2006 to his cousin uncle Ramdas Sambhaji Isankar, the Committee finds that the certificate of validity issued to the real uncle Govind, is not free from suspicion. It is held by the Committee in the impugned order that a notice to show cause has been issued to said Govind on 14th September 2017, calling upon him to show cause as to why this certificate of should not be cancelled as its issuance is vitiated by fraud or suppression of material facts by the said Govind.

3. On such a finding being rendered by the Committee, we called upon the learned AGP on the earlier two occasions to produce the record. We also indicated to the learned AGP as to how the certificate of validity is denied to the petitioner though she has established her relationship with the said Govind and only on the ground that a show cause notice has been issued, but no proceedings in furtherance thereof came to be initiated till date. The learned AGP sought time to file an affidavit. Now, the Joint Commissioner, Schedule Tribe Scrutiny Committee, Aurangabad has filed an affidavit in reply. That is taken on record. The said affidavit admits that the certificate of validity has been issued to her real uncle and cousin uncle of the petitioner. The affidavit admits that the petitioner relies heavily on these two documents, but clarifies that there is a suppression detected from the original record of the certificate holder and that is how a show cause notice has been issued to Govind. The show cause notice could not be taken to its logical end on account of the huge pendency of cases before this Committee. In all, 7,000

matters were pending on the date when this Joint Commissioner took charge and he has reduced the pendency by 2500 cases being decided. In the circumstances, he says that appropriate orders and directions be issued by this Court.

4. *We are not impressed by this explanation and the justification not to proceed against a person who has perpetrated a fraud on the public. If it is a serious allegation and which is termed as fraud, then, it should have been taken to its logical end. Mere issuance of a show cause notice in the present case would not suffice for there are two certificates of validity relied upon. The only reason assigned in the impugned order to discard them, cannot be sustained. The justification in the above affidavit is also not enough to straightaway discard the certificates of validity issued in the family. It is conceded that other reasons assigned in the impugned order cannot be supported in law.*

8. *This order does not prevent the Committee from proceeding against Govind in accordance with law and needless to further clarify that in the event Govind's claim is invalidated, all the consequences shall be taken by the petitioner as well."*

6. In view of the above, both these Petitions are partly allowed. The impugned orders are quashed and set aside. The competent committee is directed to issue validity certificates of Mannervarlu Scheduled Tribe, to these Petitioners, on or before 31.03.2023.

7. Needless to state, in the event any of the blood relative

of these Petitioners, who has received the validity certificate, suffers invalidation on account of the reopening of cases, the consequences suffered by him/her, would also visit these two Petitioners who would be liable to suffer the same.

8. The civil application filed by the management of the institution in which the Petitioner in Writ Petition No. 9207 of 2021 is taking education, seeking payment of full fees, would not survive and stands disposed off, as these Petitioners would be entitled for the reimbursement of fees in view of this order and the Government can disburse the said amount to the educational institutions.

9. Rule is made partly absolute in the above terms.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE , J.)

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