

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.10018 OF 2023

Sachin s/o Laxmanrao Kudade ... PETITIONER

VERSUS

1. The State of Maharashtra through its Secretary, Tribal Development Department Mantralaya, Mumbai - 32
2. Deputy Director (Research) and Member Secretary Scheduled Tribe Certificate Verification Committee, Kinwat, Headquarter Aurangabad Near Saint Lawrence High School, Town Centre, CIDCO, Aurangabad Dist. Aurangabad

... RESPONDENTS

Advocate for Petitioner : Mr. Thorat Chandrakant R.
A.G.P for respondent Nos.1 and 2 : Mr. S.G. Sangale

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

DATE : 18.08.2023

ORDER (MANGESH S. PATIL, J.) :

The petitioner is challenging the order passed by the Scrutiny Committee confiscating and cancelling his tribe certificate of 'Mannervarlu' scheduled tribe.

2. Rule. Rule is made returnable forthwith. Considering the urgency, the matter is taken up for final disposal at the admission stage at the joint request of the parties.

3. The learned advocate for the petitioner submits at the outset that admittedly petitioner's real brother Amol has been granted validity certificate way back in the year 2011. Even his two cousins Umesh Prakash Kudade and Pradeep Prakash Kudade have been granted validity certificates. Pradeep's validity was first in point of time in the year 2010. It was issued by conducting vigilance inquiry. A report was submitted and by following due process the then Committee had granted validity certificate to him. He would further submit that an old record of the grandfather Vitthal Dhondiba Kudade of a period of 1955 was also looked into by the then Committee apart from several other record and a certificate of validity was issued. He would submit that though the Committee is relying upon some subsequent record which according to it is contrary, the oldest record which is favourable to the petitioner has been conveniently ignored. It is not that the Committee has found that there was some manipulation in the record of the grandfather, wherein, he has been described as 'Mannervarlu' way back in the year 1955. He would therefore submit that so long as there are several validity holders in the blood relations and those certificates are not confiscated and cancelled, the petitioner is entitled to derive the benefit of such validities.

4. The learned AGP would support the order and would submit that though it is a matter of record that some of the blood relations of the petitioner have been granted certificates of validity by the then committees and also by following due process of law, the present Committee has

undertaken a thorough scrutiny and has found that earlier validity holders could get the decisions from the then Committees by resorting to fraud. He would submit that several contrary entries of the blood relations were concealed. Two cousins of the petitioner Umesh Prakash and Pradeep Prakash were granted validities by the Committee whose composition was faulty. The petitioner's brother was granted validity by a committee whose business was found by the Government to be dubious and the Committee has now decided to undertake fresh scrutiny of the validity holders' claims.

5. We have carefully considered the rival submissions and perused the papers. There is no dispute about the fact that the petitioner's real brother Amol has been granted validity by the Committee by following due process of law. The Committee has now sought to take exception to that order by observing that the conduct of the then Committee members was dubious. It was headed by one V.S. Patil. We need not deliberate on this. So long as the certificates of validity issued by following necessary procedure in accordance with law are not confiscated and cancelled in accordance with law as is prescribed under section 7(1) of the Maharashtra Act no. XXIII of 2001, the committee could not have refused to extend the benefit of the validities in the family by questioning the functioning of the then scrutiny committee.

6. As regards the observation of the Committee regarding composition of the then Committee which granted validities to Umesh Prakash and Pradeep Prakash, in our considered view, a successor committee

cannot question such composition more so when according to Rule 9(3) of the Maharashtra Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Rules, 2003, the decision of the committee which comprises of three members can be by majority. In this view of the matter when there was no dispute about the eligibility of the other two members consequently, this ground will not be sustainable.

7. It appears that the Committee has now formed an opinion that the earlier validity holders had practised fraud and has expressed its intention to undertake reconsideration. Since it is a matter of fraud, 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 touching the alleged fraud. We leave it at that.

8. In the light of above, we are of the considered view that till the time the blood relations of the petitioners who have been issued with certificates of validity are not proceeded against and the certificates are not

confiscated and cancelled, the petitioner is entitled to derive the benefit.

9. The writ petition is partly allowed. The impugned order is quashed and set aside. The respondent - committee shall immediately issue 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.

10. The petitioner shall not be entitled to claim equities.

11. Rule is made absolute in the above terms.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)