

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

CIVIL APPLICATION NO. 9982 OF 2023
IN
WRIT PETITION NO. 4350 OF 2023

1. Om s/o Balaji Pupalwad,
 2. Rajeshwar w/o Balaji Pupalwad
- ...Applicants

Versus

1. The State of Maharashtra,
Through its Secretary,
Tribal Development Department, Mumbai.
 2. Deputy Director (Research) and
Member Secretary,
Scheduled Tribe Certificate Verification Committee,
Aurangabad.
- ...Respondents

...

Advocate for Applicants/Petitioners : Mr. Thorat Chandrakant R.
Addl.GP for Respondents/State : Mr. P. S. Patil

...

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

DATE : 10 AUGUST 2023.

PER COURT :

Heard the learned Advocate for the petitioners/applicants and the learned AGP.

2. These applicants who are the original petitioners were challenging the invalidation. By order dated 19.07.2023, for the reasons recorded

therein, we had quashed and set aside the order passed by the respondent no.2/Scrutiny Committee and had directed it to issue certificate of validity to the applicants.

3. Since the Committee had expressed its intention to go for re-verification of the validation being relied upon by the petitioners, we had expressed that the certificates of validity of the petitioners would depend upon the decision/final outcome of the matters which the Committee had intended to reopen.

4. In our considered view, passing of this speaking order should have put everything to rest but for the over enthusiasm of the Committee which has devised another way to some how create obstacles. The petitioners, by way of this application are pointing out that the respondent no.2/Committee has now started putting up a rubber stamp on the prescribed Form G generated for issuance of certificates of validity, thereby incorporating that it is a certificate which is a conditional. When the law does not admit of any such conditional certificate, when the prescribed format is to be generated in Form G, action of the Committee putting up the rubber stamp qualifying the legality of the certificate is highly unbecoming besides being grossly illegality.

5. A right can be made subject to the condition but not the validity

certificate. When we put up a condition that the validity certificate to be issued would be subject to certain conditions that does not qualify the validity certificate itself but qualifies the right of its holder. The action of the Committee is clearly beyond the purview and de-hors the provision of the Maharashtra Act No.XXIII of 2001 as well as the rules framed thereunder which require certificate of validity to be strictly issued in the prescribed Form G.

6. We, therefore, allow this application and direct the respondent no.2/Committee to issue certificate of validity to the petitioners strictly in Form G obviously without putting up any endorsement thereon.

7. The learned AGP on instructions submits that the electronic system allows generation of certificate of validity in respect of an individual only once and it cannot be regenerated.

8. That may be a practical difficulty. However the petitioners cannot be made to suffer for that more so when we have found that no condition could have been endorsed on the certificate of validity.

9. Be that as it may, anticipating that the Committee may not be able to right now rectify the error, we allow the petitioners to have the certificate of validity which for all practicable purposes shall be treated by everyone as the certificate of validity issued in Form G and ignoring

the conditions placed thereon by way of rubber stamp or otherwise which is not in accordance with Form G.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

Najeeb...