

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

Writ Petition No. 10301 / 2023

Sneha d/o Hanmanlu Muttepod

...Petitioner

Versus

1. The State of Maharashtra,
Through Secretary to
Tribal Development Department,
Mantralaya, Mumbai.
2. The Deputy Director (Research)
and Member Secretary,
Scheduled Tribe Caste Certificate
Verification Committee, Kinwat,
Headquarter Aurangabad,
Near CIDCO Bus Stand,
Dist. Aurangabad.

...Respondents

AND

Writ Petition No. 10309 / 2023

Ganesh s/o Hanmanlu Muttepod

...Petitioner

Versus

1. The State of Maharashtra,
Through Secretary to
Tribal Development Department,
Mantralaya, Mumbai.
2. The Deputy Director (Research)
and Member Secretary,
Scheduled Tribe Caste Certificate
Verification Committee, Kinwat,
Headquarter Aurangabad,
Near CIDCO Bus Stand,
Dist. Aurangabad.

...Respondents

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Mr. Chandrakant R. Thorat, Advocate for the Petitioners in both petitions.

Mr. A.A. Jagatkar, AGP for respondents/State in both petitions.

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**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.
DATE : 21 AUGUST 2023.**

FINAL ORDER [PER : SHAILESH P. BRAHME, J.] :

. Heard the learned Counsel for the respective parties finally.

1. The petitioners in both the petitions are the siblings and children of Hanmanlu Girmaji Muttepod. Their tribe certificates for scheduled tribe Mannervarlu, were invalidated and confiscated by a common judgment and order dated 10.08.2023. Being aggrieved, the petitions are filed. They are relying upon validity issued to Parshuram Chinappa Muttepod and further relying upon old entries of 1955.

2. The learned AGP supports the impugned judgment and order. According to him, the Scrutiny Committee noticed the contrary entries of the blood relatives of the petitioners and there was suppression of invalidation order passed in the matter of Manohar. Therefore no fault can be found in the impugned judgment and order. Considering the affinity test and unreliability of the validity certificate, the caste claims are rightly rejected.

3. The learned AGP has also informed that the Committee has proposed re-verification and show cause notices are issued. The original files of petitioners and validity holder, Parshuram are produced on record.

4. We have considered rival submissions of the parties. The genealogy which is at page no.87 and 89 is undisputed. The father of the petitioners is the validity holder. However, Parshuram who is

paternal side relative of the petitioners, is the first validity holder. To demonstrate that his validity certificate was issued after following due procedure of law and endeavour is made by the petitioners by producing vigilance report and the order passed in his matter by the Scrutiny Committee. The reasoned order in the case of Parshuram which is at page no.76 reveals an enquiry conducted by vigilance officer. The report is at page no.80. The relevant record appears to be considered by the then Committee. The reasoned order passed by the Committee in the matter of father of the petitioners is also on record at page no.96. It also shows consideration of relevant record. We are of the considered view that the validity certificates of Parshuram and Hanmanlu are reliable.

5. The learned Counsel for the petitioners would submit that there is old record of 1955 for transfer of land. It was considered in the case of validity holders. The petitioners have explained before the Scrutiny Committee on 11.08.2023 that the original document was not available and they were unable to produce the same. Therefore a finding is recorded by the Scrutiny Committee that the document be not considered. As the document in question was already considered in the matters of earlier validity holders, it would be hyper technical approach to deprive the petitioners from its benefit.

6. The learned AGP would point out from the birth extracts of Chinappa and the document of the 1955, that the validity validity certificate was wrongly issued to Parshuram. It is further submitted that the invalidation order in the matter of Manohar was suppressed. There are contrary entries and the genealogy is doubtful.

7. The Scrutiny Committee has already decided to reopen the matters, hence birth certificate of Chinappa and its probative value cannot be commented at this juncture. The doubt expressed by the learned AGP about the genealogy can be subject matter of re-verification. The photocopies of school record showing contrary entries are pointed out from the original file. We restrain ourselves from offering any comment as that would cause prejudice to the re-verification. The Scrutiny Committee has committed error of jurisdiction when already validity certificates are issued on selfsame record.

8. We find that the impugned judgment and order is unsustainable and therefore, we allow the writ petitions partly by passing following order.

ORDER

- (i) The common judgment and order dated 10.08.2023 passed by the Scrutiny Committee is quashed and set aside.
- (ii) The Scrutiny Committee shall issue tribe validity certificates of scheduled tribe 'Mannervarlu' in favour of both the petitioners immediately which shall be subject to following conditions:
 - (a) The validity certificates shall be subject to the outcome of the re-verification undertaken by the Scrutiny Committee.
 - (b) The petitioners shall not claim any equity.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]