

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11387 OF 2022

Vedant S/o Subhash Nallewad
Age 18 years, Occu – Education
R/o. Tuppa, Tq. Nanded,
Dist. Nanded

.. Petitioner

Versus

1] The State of Maharashtra,
Through its Secretary,
Medical Education and Drugs Department,
Mantralaya, Mumbai

2] The Scheduled Tribe Caste Certificate
Verification Committee Kinwat,
Through its Dy. Director (R),
At 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

...

Advocate for petitioner : Mr. S.M. Vibhute
AGP for the respondent – State : Mr. S.K. Tambe
Advocate for the respondent no. 3 : Mr. M.D. Narwadkar

...

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

DATE : 21 JUNE 2023

ORAL ORDER (MANGESH S. PATIL, J.) :

Heard the learned advocate for the petitioner, the learned
AGP for the respondents no. 1 and 2 and learned advocate for
respondent no. 3 finally.

2. The petitioner claims to be belonging to the Mannervarlu scheduled tribe. He is challenging the order passed by the respondent no. 2 - scheduled tribe caste certificate verification committee, Kinwat dated 14-09-2022 whereby his claim has been invalidated and the tribe certificate has been seized and cancelled.

3. Since the petitioner has completed 12th Science and after appearing for NEET-UG-2022 is aspiring to get admission to the medical course, he is anxious of losing an opportunity in view of the impugned order. Satisfied with the exigency we have heard the matter finally.

4. At the outset, it is necessary to note that both the sides have taken us through the entire order under challenge and even the original record was produced before us by the respondents. Elaborate submissions were made by the learned advocate for the petitioner to demonstrate as to how the respondent - committee has erred in appreciating all the facts and circumstances and has failed to consider the validities obtained by the blood relations.

5. Pertinently, he would point out that admittedly, petitioner's blood relation by name Vishwanath Vitthal Nalewad who happens to be the distant cousin grandfather from the paternal side has been issued with a validity certificate as belonging to Mannervarlu way back in the

year 2006. Based on the validity of Vishwanath even his issues Sanjay and Manika have obtained the validities. Besides there are validities of other blood relations like Dilip Digambar Nalewad, Shivaji Bhaurao Nalewad, father-Subhash Mahajan Nalewad and one Vijay Balaji Nalewad.

6. He would submit that irrespective of all other circumstances, so long as the validities granted in favour of these many blood relations are not revoked, the petitioner cannot be deprived of having the benefit of the social status. If at all the committee intends to reopen the cases of these many validity holders, the petitioner's claim would be set at naught. However, since not even notices have been issued to these validity holders, the course being followed by this Court consistently, of granting validities conditional upon the ultimate decision of the cases of the validity holders to be reopened, should be followed.

7. Learned AGP would strenuously endeavour to point out as to how all the validity holders have obtained the validities by practising fraud. He would demonstrate as to how there are contrary entries in respect of blood relations wherein their caste in the school record has been shown to be Maratha. There is a manipulation in the word Mannervarlu where the letter 'lu' has been added subsequently in the school record. This is the case even in respect of validity holder

Vishwanath Vitthal Nalewad. Having considered the observations of this Court in the matter of **Jyoti Sheshrao Mupade Vs. State of Maharashtra and others** (writ petition no. 1954 of 2009 with connected civil applications order dated 22-08-2012) and the observations of the Supreme Court in last portion of paragraph no. 22 and paragraph no. 23 from the matter of **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others; 2023 SCC Online SC 326**, the fraud would vitiate everything. When there is apparent fraud the petitioner cannot be allowed to derive the benefit of the validity of the blood relations which would perpetuate the fraud.

8. Having considered the rival submissions, it is imperative to bear in mind the observations of the Supreme Court in the matter of **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti** (supra) in paragraph no. 22 and 23. If there is no dispute as regards the blood relation between the petitioner and the afore-mentioned validity holders, so long as the certificates granted to the validity holders are not cancelled or revoked by re-opening their cases, interest of the petitioner will have to be protected by granting conditional validity as this Court has been doing consistently in the matters of **Pratibha Narayan Gudalod Vs. State of Maharashtra and others** (writ petition no. 1744 of 2020) and her sister **Sangita Narayan Gudaold** (writ petition no. 1754 of 2020) decided by the common order dated

08-06-2023 and **Anuja Linguram Tummod Vs. State of Maharashtra and others** (writ petition no. 2553 of 2018) order dated 27-07-2018.

9. When admittedly, even notices have not been issued to these validity holders, although the order under challenge was passed on 14-09-2022, the petitioner cannot be denied the validation conditional upon the ultimate decision to be taken in the matter of those validity holders.

10. The writ petition is partly allowed.

11. The impugned order of the respondent no. 2 - committee is quashed and set aside. It is directed to issue validity certificate to the petitioner as expeditiously as possible and in any case within two weeks. Such validity of the petitioner would be subject to the finality of the decision / decisions in case the validity certificates granted to the aforementioned blood relations is/are cancelled or revoked. In that event, the petitioner shall not be entitled to claim equities and would lose all the benefits derived by him on the basis of the validity certificate being issued to him.

12. We direct the scrutiny committee to conclude the proceedings wherever they have decided to re-open the validities of the blood relatives as expeditiously as possible and in any case within six months.

13. It would be imperative for the petitioner/s as well as his blood relations whose cases are opened or would be opened by the scrutiny committee to co-operate the scrutiny committee in early disposal of such re-opened cases.

14. Any lapse on their part noticed by this Court would be considered seriously and this Court may revoke the conditional validity being granted to the petitioner/s.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/