

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.1931 OF 2023

Nikita d/o Kabirrao Singanwad

... 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, Dist. Aurangabad
3. The Dean Yerala Medical Trust Ayurvedic Mahavidhyalaya Plot No.18, Sector 4, Railway Station, Khargar, Navi Mumbai.
4. The Registrar Maharashtra University of Health Sciences, Dindori Road, Mhasrul/ Nashik, District – Nashik

... RESPONDENTS

Advocate for Petitioner : Mr. S.M. Vibhute
A.G.P for respondent/State : Mr. S.G. Sangale
Advocate for respondent No.4 : Mr. K.M. Suryawanshi

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

DATE : 08.09.2023

ORDER (MANGESH S. PATIL, J.) :

The petitioner is challenging the order passed by the respondent – Scrutiny Committee confiscating and cancelling her certificate of ‘Mannervarlu’ scheduled tribe.

2. The learned advocate for the petitioner submits that the petitioner's brother Girish has been granted certificate of validity in the year 2011. The Committee has refused to extend the benefit stating that in turn Girish had obtained the validity relying upon validity of one Vishwamber Vithal Singanwad by refusing to rely upon the genealogy furnished by Girish. The Committee had no reason to discard it. Particularly when Vishwamber himself had supported Girish's claim and had filed affidavit demonstrating as to how both were related by blood from the paternal side. The Committee has also resorted to castigate functioning of the then Committee headed by one Mr. V.S. Patil during whose tenure rampant illegalities were reported and Girish had obtained certificate of validity from that Committee which stand is not legally sustainable. So long as the validity certificates are not confiscated and cancelled, the petitioner cannot be deprived of having the benefit. The petitioner is ready to run the risk of suffering the consequences as laid down in the matter of **Shweta Balaji Isankar Vs. State of Maharashtra and Ors.; WP No.6320/2017**.

3. Learned advocate Mr. Vibhute would then submit that the Committee has also erred in referring to the contrary entries in respect of the persons who do not stand in relation with the petitioner from paternal side. The observations made by the Committee based on the report of vigilance is not sustainable. Petitioner had expressly denied there being any manipulation. The contrary entries of 'Manurvar' in the school record of the father and paternal uncle had happened due to illiteracy. Girish was granted

certificate of validity by applying affinity test and the approach of the Committee is perverse and arbitrary.

4. Per Contra, the learned AGP supports the order. He points out that the committee had meticulously gone through the record of the school regarding which coloured photographs were obtained which clearly substantiate the inference drawn by the committee about there being rampant manipulation in the school record. He would then submit that there is a serious doubt about the genealogies furnished by Girish in his matter, and the genealogy furnished by Vishwamber in his own matter, as well as the genealogies collected and confirmed by the Vigilance Officer in the present matter. It is only after going through such discrepancies that the committee has made an observation about the petitioner having failed to substantiate her claim of being in the blood relation of validity holder Vishwamber. Therefore, it has rightly refused to extend the benefit of that validity to the petitioner.

5. The learned AGP would further submit that even Girish had obtained certificate of validity which was issued in a slipshod manner by a committee whose functioning was found to be dubious and the committee has decided to undertake reconsideration of Girish's claim so as to confiscate and cancel his certificate of validity.

6. We have carefully considered the rival submissions and perused the papers. Admittedly, petitioner's brother Girish is a validity holder, albeit the committee alleges that he has obtained such certificate by resorting to

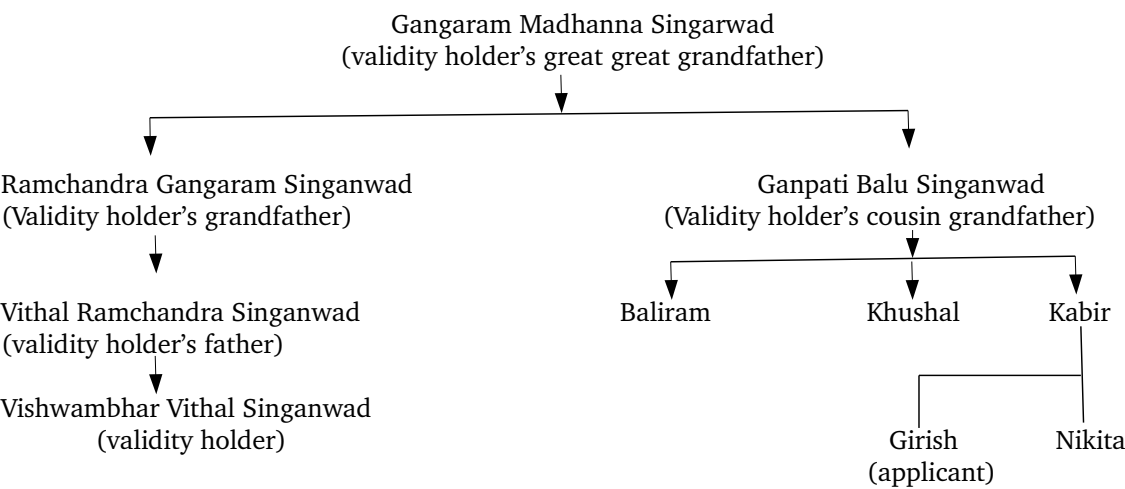
fraud. It has vaguely observed that the circumstances which constitute fraud are about he having concealed contrary record and by resorting to misrepresentation had obtained the validity certificate. Obviously fraud is a serious issue which has to be determined by undertaking a full-fledged inquiry. Whether the circumstances being referred to by the committee would constitute a fraud or otherwise would be a matter which will require a thorough inquiry which will happen if and when the committee undertakes that exercise by issuing a notice to Girish and takes the matter to its logical conclusion. Girish is not a party to this proceeding. We do not intend to make any observation touching the allegation regarding fraud in this order behind his back, which could have a bearing in the inquiry which the committee now intends to undertake for confiscation and cancellation of his certificate of validity.

7. The fact remains that the committee has not made any observation that Girish was granted certificate of validity without following due process of law. We have also gone through the Girish's file and the order passed in his matter. As can be noticed, after going through the school record furnished by Girish together with an affidavit filed by the validity holder Vishwamber Vithal Singanwad the committee had ordered a certificate of validity to be issued to him. It also refers to vigilance inquiry having been undertaken before passing the order. In view of such state of affairs, following the decision in the matter of **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and Ors.; 2023 SCC**

Online SC 326, since Girish was granted certificate of validity by following due process of law its benefit will have to be extended to the petitioner who is his real sister.

8. There is no dispute about the fact that the petitioner’s brother Girish 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.

9. As far as the dispute regarding genealogy is concerned, and the observation of the committee doubting petitioner's relationship with Vishwamber is concerned, Vishwamber has filed affidavit in Girish’s matter giving a genealogy which is as under :



13. In the circumstances, the petitioner is entitled to have a certificate of validity which can be made subject to the final outcome of the matter of her brother Girish, which the committee has now decided to reopen.

14. The writ petition is partly allowed. The impugned order is quashed and set aside. The Scrutiny 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.

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

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)