

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

906 WRIT PETITION NO.2640 OF 2023

Sampada d/o Sunil Nagamwad,
Age-25 years, Occu-Education,
R/o Ambulga (Bk.), Tq. Mukhed,
District : 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, Dist.Aurangabad
3. The Dean,
Dr.Shankarrao Chavan
Government Medical College, Nanded,
Dist.Nanded
4. The Registrar,
Maharashtra University of Health Sciences,
Dindori Road, Mhasrul / Nashik,
District - Nashik

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RESPONDENTS

Mr.S.M.Vibhute, Advocate for the petitioner.
Mr.S.K.Tambe, AGP for the respondent/State.
Mr.A.S.Bayas, Advocate for respondent No.4.

(CORAM : RAVINDRA V. GHUGE AND
SANJAY A. DESHMUKH, JJ.)
DATE : MARCH 9, 2023

ORAL JUDGMENT : (Per Ravindra V. Ghuge, J.)

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2. The Petitioner has completed her M.B.B.S. Course. She was admitted vide the MH-CET – 2014, from the ST category. She has also completed her internship and her bond period is also over.

3. The Petitioner is aggrieved by the order dated 02.09.2022 passed by the competent Committee invalidating her claim of belonging to the Mannervarlu ST category.

4. Having considered the strenuous submissions of the learned Advocates for the respective sides and after perusing the original record available with the learned AGP, and the genealogy tendered on affidavit dated 09.03.2023, which is from Page Nos.95 to 97, we find glaring aspects as under :-

[a] The oldest person "मुळ पुरुष" as is available to the family members is Vithoba Nagamwad. A restricted family tree is placed before us

which indicates that he had 2 sons Dharmaji and Babanna. These are now the 2 branches in the said genealogy.

[b] Dharmaji had 5 children namely Moglaji, Tukaram, Laxmibai, Rukminbai and Vitthal.

[c] This Vitthal had 6 children namely Balaji, Sunil, Anil, Padmakar, Shriram and Dharmaji.

[d] The present petitioner Sampada is the daughter of Sunil.

[e] 4 biological brothers of Sunil, namely Balaji, Anil, Padmakar and Shriram have been granted validity certificates by the competent Committee.

[f] From the branch of Babanna, with 5 children namely, Vitthal, Gangadhar, Gangubai, Shankar and Vyankat, Shankar has been granted validity.

[g] Vitthal had 7 children namely Sanjay, Raju, Pralhad, Shivaji, Balkishan, Yogesh and Nilesh. Sanjay, Raju and Shivaji have been issued with validity certificates.

[h] Both the daughters of Sanjay, namely Saujanya and Samiksha have been granted validity certificates by the High Court.

5. The learned AGP has strenuously made an attempt to

indicate contradictory entries and pieces of evidence. However, it cannot be ignored that Saujanya and Samiksha were before this Court in WP No.13909/2018, decided on 14.12.2018 and 7532/2018, decided on 23.07.2018. In the case of Samiksha, this Court dealt with all the details of the paternal relatives, their entries, the records available and the contra entries on behalf of the Committee. It was concluded that Samiksha deserves to be granted the validity certificate. However, this Court passed a conditional order thereby granting the validity certificate to the Samiksha.

6. In so far as contra evidence and contra entries, leading to reopening of cases is concerned, this Court has held in **Shweta Balaji Isankar Vs.State of Maharashtra and others, in WP No.5611 of 2018, dated 27.07.2018** in paragraph Nos. 2 to 4 and 8 as under :-

"2. On the earlier occasion, we found that though the petitioner produced credible evidence in the form of certificates of validity issued to her real uncle Govind Sambhaji Isankar and which concededly has been issued way back on 5th December 2005 and another certificate of validity dated 5th September 2006 to his cousin uncle Ramdas Sambhaji Isankar; the Committee finds that the certificate of validity issued to the real uncle Govind, is not free from suspicion. It is held by the Committee in the impugned order that a notice to show cause has

been issued to said Govind on 14th September 2017, calling upon him to show cause as to why this certificate of validity should not be cancelled as its issuance is vitiated by fraud or suppression of material facts by the said Govind.

3. On such a finding being rendered by the Committee, we called upon the learned AGP on the earlier two occasions to produce the record. We also indicated to the learned AGP as to how the certificate of validity is denied to the petitioner though she has established her relationship with the said Govind and only on the ground that a show cause notice has been issued, but no proceedings in furtherance thereof came to be initiated till date. The learned AGP sought time to file an affidavit. Now, the Joint Commissioner, Schedule Tribe Scrutiny Committee, Aurangabad has filed an affidavit in reply. That is taken on record. The said affidavit admits that the certificate of validity has been issued to her real uncle and cousin uncle of the petitioner. The affidavit admits that the petitioner relies heavily on these two documents, but clarifies that there is a suppression detected from the original record of the certificate holder and that is how a show cause notice has been issued to Govind. The show cause notice could not be taken to its logical end on account of the huge pendency of cases before this Committee. In all, 7,000 matters were pending on the date when this Joint Commissioner took charge and he has reduced the pendency by 2500 cases being decided. In the circumstances, he says that appropriate orders and directions be issued by this Court.

4. *We are not impressed by this explanation and the justification not to proceed against a person who has perpetrated a fraud on the public. If it is a serious allegation and which is termed as fraud, then, it should have been taken to its logical end. Mere issuance of a show cause notice in the present case would not suffice for there are two certificates of validity relied upon. The only reason assigned in the impugned order to discard them, cannot be sustained. The justification in the above affidavit is also not enough to straightaway discard the certificates of validity issued in the family. It is conceded that other reasons assigned in the impugned order cannot be supported in law.*

8. *This order does not prevent the Committee from proceeding against Govind in accordance with law and needless to further clarify that in the event Govind's claim is invalidated, all the consequences shall be taken by the petitioner as well."*

7. In view of the above and considering the Law laid down in **Apporva d/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No.1 Nagpur [2010(6) Mh.L.J.401 : AIR 2010(6) Bom.R.21]**, this petition is partly allowed. The impugned order dated 02.09.2022 is quashed and set aside. We direct the Committee to issue a validity certificate to the Petitioner, upholding her claim of belonging to "*Mannervarlu*" Scheduled Tribe Category, on or before 31.03.2023.

8. Needless to state, in view of Shweta Balaji Isankar (supra), in case any reopened case of an earlier validated candidate on whom the petitioner has placed reliance for seeking her validity, suffers invalidation, the consequences that would visit such candidate would also befall upon the Petitioner and she would also be liable to suffer the same fate, subject to the due process of Law being followed after reopening her case.

9. Rule is made partly absolute in the above terms.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE, J.)