

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

WRIT PETITION NO.11126 OF 2023

Manojkumar s/o Shankarrao Bhandare ... **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,
 Headquarter at Aurangabad
 through its Dy. Director (R),
 Dist. Aurangabad

... **RESPONDENTS**

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Advocate for Petitioner : Mr. Sunil M. Vibhute
Addl.G.P. for respondent/State : Mr. S.G. Sangale

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

DATE : 15.09.2023

ORDER (MANGESH S. PATIL, J.) :

Petitioner is challenging the order passed by the respondent
– Scrutiny Committee invalidating his tribe claim of belonging to
'Mannervarlu' scheduled tribe.

2. We have heard both the sides finally in view of the urgency.

3. The learned advocate for the petitioner submits that the real
sister Madhuri possesses a certificate of validity issued to her by the
Scrutiny Committee in the year 2009. Based on her validity petitioner's

distant cousin Ramesh Mohan Bhandare was granted certificate of validity. Even if the Committee now intends to reopen their cases on the ground of alleged fraud, till the time their certificates of validity are not confiscated and cancelled, the petitioner cannot be deprived of deriving the benefit. He would submit that the petitioner is ready to run the risk of facing the consequences as laid down in the matter of **Shweta Balaji Isankar Vs. State of Maharashtra and Ors.; WP No.6320/2017**.

4. Learned advocate would further submit that the conduct of the Committee in resorting to area restriction and applying affinity test is also illegal and the petition be allowed.

5. The learned AGP submits that the Committee has assigned concrete reasons as to why the petitioner was not entitled to rely upon the validity certificates in the family. It has entertain a doubt about fraud having been practised. It has decided to reopen their cases. The learned AGP would further submit that the decision taken by the Committee is based on plausible appreciation of the record. The entry of petitioner's ancestor Chinu Limbaji Bhandare at serial No.168 of the school record being relied upon of 1963 was found to be inserted at a later point of time. There are two such entries of serial No.168.

6. Having considered both the sides and having perused the order passed by the scrutiny committee, it has doubted the entry of Chinu Limbaji of 1963 stating that there are two entries of serial No.168 and this entry was apparently same to have been added at the bottom of the

page. Whether this circumstance would constitute intentional concealment and substantiate the committee's inference of fraud having been practised would be a matter which would be directly and substantially in issue in the matter of validity holders which the Committee has now decided to reopen. We cannot make any comment in that respect as it would be causing serious prejudice to the validity holders who are not before us.

7. The fact remains that it is not the observation of the Committee that no procedure as is required by law was followed in the matter when petitioner's sister Madhuri was granted certificate of validity. Till the time it is not confiscated and cancelled, the petitioner being the real brother cannot be denied the benefit of having a conditional validity and he is ready to run the risk as contemplated in the matter of **Shweta Balaji Isankar Vs. State of Maharashtra and Ors.; WP No.6320/2017.**

- A. The writ petition is partly allowed.
- B. The impugned judgment and order dated 31.08.2023 passed by the respondent No.2/Scrutiny Committee is quashed and set aside.
- C. The respondent No.2/Scrutiny Committee shall immediately issue certificate of validity to the petitioner as belonging to the 'Mannervarlu' (Scheduled Tribe).
- D. The certificate of validity shall be subject to the outcome of the proceedings reopened by the Committee of the validity holders.
- E. The certificate of validity shall be issued in the prescribed

format without adding anything/condition.

F. The petitioner shall not claim any equities.

G. The writ petition is disposed of.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)