

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

WRIT PETITION NO.12622 OF 2021

Pranav s/o Ramrao Mantre ... **PETITIONER**

VERSUS

1. The State of Maharashtra
through Secretary to Tribal Development
Department Mantralaya Mumbai
2. The Scheduled Tribe Certificate
Verification Committee, Aurangabad
through its Deputy Director [R]
Dist. 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**

AND

WRIT PETITION NO.12648 OF 2021

Priyanka Ramrao Mantre ... **PETITIONER**

VERSUS

1. The State of Maharashtra
through Secretary to Tribal Development
Department Mantralaya Mumbai
2. The Scheduled Tribe Certificate
Verification Committee, Aurangabad
through its Deputy Director [R]
Dist. Aurangabad
3. The Principal [Resp. No.3 is deleted as per
Mahatma Basaveshwar Society's order dated 22.11.2021]
College of Engineering Ambajogai
Ambajogai, Tq. Ambajogai Dist. Beed. ... **RESPONDENTS**

...

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

...

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

DATE : 24.08.2023

ORDER (MANGESH S. PATIL, J.) :

Heard the matters finally at the joint request of the parties.

2. The petitioners are the siblings challenging the common order passed by the Scrutiny Committee confiscating and cancelling their tribe certificates as belonging to 'Koli Mahadev' scheduled tribe.

3. The learned advocate for the petitioners submits that there is no dispute about the genealogy. The petitioners' father Ramrao Mantre and their real paternal uncle Laxman Mantre have been issued with certificates of validity. Even their cousin Dhananjay Ravikant Mantre has also been issued with certificate of validity. So long as these certificates of validity are not confiscated and cancelled, by following due process of law, the petitioners cannot be deprived of deriving the benefit even if the Committee now entertains a doubt and attributes fraud to the validity holders in obtaining certificates of validity.

4. The learned AGP submits that the validity holders had practised fraud. There was concealment of unfavourable record pertaining to contrary entries. The school record was fabricated. The Committee has decided to reopen the validities. He would submit that even the composition of Committee which granted certificate of validity to Laxman Mantre and Dhananjay Ravikant Mantre was faulty since one of its member was not eligible to be a part of the Committee. The certificate granted to Ramrao Mantre was issued by a Committee headed by one Mr. V.S. Patil whose functioning was found by the State Government to be dubious.

5. We have carefully considered the rival submissions and perused the papers. Apparently, there is no dispute about the genealogy at least to the extent that petitioners' father Ramrao Mantre, paternal uncle Laxman Mantre and cousin Dhananjay Ravikant Mantre. They have been issued with certificates of validity between 2010 and 2011. Even if now Committee is attributing these persons of having practised fraud while obtaining certificates of validity, unless and until the Committee embarks upon and undertakes a scrutiny and takes it to the logical conclusion about its such outwardly inference, the petitioners cannot be deprived of the benefits.

6. We do not intend to comment on the powers of the Committee to undertake such review or reopen the inquiries. Even if it has such a power, we do not intend to make any observations touching the circumstances which according to the Committee constitute fraud, for two reasons. Since it is an issue which is directly and substantially in issue under consideration of the Scrutiny Committee we cannot make any observation which could have some bearing on that inquiry. Secondly, the validity holders are not before us. Therefore, we also do not intend to cause any prejudice to them by making certain observations touching the alleged fraud. We leave it at that.

7. As regards the observation of the Committee regarding composition of the then Committee which granted validities to Laxman Mantre and Dhanraj Ravikant, in our considered view, a successor committee cannot question such composition more so when according to

Rule 9(3) of the Maharashtra Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of Caste Certificate Rules, 2003, the decision of the committee which comprises of three members can be by majority. In this view of the matter when there was no dispute about the eligibility of the other two members this ground will not be sustainable.

8. There is no dispute about the fact that the petitioners' father Ramrao Mantre, 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. In the circumstances, the petitioners deserve to be extended the benefits of having conditional validities.

10. The writ petitions are partly allowed. The impugned order is quashed and set aside. The Scrutiny Committee shall immediately issue tribe validity certificates to both the petitioners as belonging to 'Koli

Mahadev' scheduled tribe. The validity of these certificates shall be subject to the final outcome of the matters which the Committee has decided to reopen in respect of the validity holders.

11. The petitioners shall not be entitled to claim equities.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)