

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

WRIT PETITION NO. 12714 OF 2021

Yash s/o Yamakant Pallewad,
Age 19 years, Occ. Education,
R/o. Bachoti, Tq. Kandhar,
Dist. Nanded.

... **Petitioner**

VERSUS

1) The State of Maharashtra,
Through Secretary to Tribal
Development Department,
Mantralaya, Mumbai.

2) The Schedule 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**

...

Advocate for the Petitioner : Mr. S.M. Vibhute
A.G.P for the Respondent Nos. 1 & 2 : Mr. S.K. Tambe
Advocate for Respondent No. 3 : Mr. M.D. Narwadkar

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

DATE : 21.06.2023

PER COURT :

By way of this petition, the petitioner is challenging the order passed by the respondent No. 2- Schedule Tribe Certificate Verification Committee (hereinafter 'committee') dated 08.10.2021 whereby his tribe

certificate as belonging to 'Mannervarlu' scheduled tribe has been cancelled and seized.

2. Notices were already issued to the respondents who have caused appearance through learned A.G.P. and through Mr. Narwadkar.

3. Considering the fact that the petitioner is a 12th science student who has appeared in the NEET (UG) - 2021 and is aspiring to undertake admission for the professional course, with the consent of both the sides, the matter has been heard finally at the stage of admission.

4. The learned advocate for the petitioner would vehemently submit that the committee has ignored validities granted to the blood relations without any sound and convincing reason. There are no contrary entries except in case of the grand father wherein his caste was shown as 'Maratha' which was an error. There were no other contrary entries. His father, real paternal uncle and two distant paternal uncles have been granted validity way back in the years 2008 to 2010. The committee has issued show cause notices to three of them but has not reached to a final decision. They have also responded to this notice dated 04.04.2022. That matter would take its own course. Even maintainability of that show cause notice is a subject matter of challenge before this Court in Writ Petition No. 623/2022. It is only if it can be demonstrated that they had obtained the validity certificates by practising fraud that their cases can be reopened. It would be a long drawn process. The petitioner cannot be denied the benefit when his father and uncles have been armed with validity certificates. This Court has been granting conditional validities, which is the practical way out in such matters where the blood relations are having validity certificates but the committee intends to reopen their cases but the matters linger. The petitioner's career cannot be put at stake and allowed to suffer adversely. He would, therefore, submit that apart from the unsoundness in the reasoning in the impugned order, the petitioner deserves to be granted benefit, may be conditionally.

5. The learned A.G.P would vehemently submit by taking us through the record that the oldest entry of the grand father in the school record mentioned his caste as Maratha and correction has been carried out in the school record contrary to the statutory provisions contained in Rule 26.4 of the Secondary School Code. Any such correction of the school record which is carried out illegally cannot be resorted to and allowed to be used to stake a tribe claim.

6. He would further submit that even manipulations have been noticed wherein letter 'lu' has been suffixed to word 'Manervar' which has been specifically noted by the committee in the impugned order. He would submit that the fraud vitiates everything. The validities have been obtained by practising fraud not only by the father of the petitioner but his uncles. The original validity holder is the real paternal uncle of the petitioner by name Vitthal Govindrao Pallewad. He had obtained that certificate taking advantage of the validity granted to one Udhav. However, the affidavit filed by Udhav in the matter of Vitthal Pallewad is false wherein he has mentioned that Vitthal is his cousin when there is no blood relation between the two. It is a clear case of fraud and the committee has issued notices and intends to undertake a fresh scrutiny.

7. We have carefully considered the rival submissions and perused the papers. At the outset, it is necessary to note that there is absolutely no denial about the fact that the petitioner's father, one paternal uncle Vitthal and two cousin uncles Saikrishna and Purushottam have all received validity certificates which were issued between 2008 and 2010. Even though the committee has now decided to reopen their cases and show cause notices have been issued, no final decision has been taken till date. On the contrary, admittedly, three of them have filed Writ Petition No. 623/2022 challenging the very show cause notice. We are pointing out this fact to emphasize that whether actually any fraud was practised by these validity holders while obtaining the validity certificates from the committee is now a subject

matter which is directly and substantially in issue in the matters reopened by the committee and which is also a subject matter before this Court in Writ Petition No. 623/2022. Therefore, it would not be appropriate for this Court to comment upon those allegations of alleged fraud and the circumstances being relied upon either side to prove or disprove it.

8. For the time being, it is suffice to note that the petitioner's father and paternal uncles are armed with validity certificates and so long as those are not cancelled, the propriety demands that even the petitioner is granted validity, may be conditionally, depending upon the ultimate decision in the matters which are reopened. That process obviously is a long drawn process and the petitioner cannot be expected to wait for its conclusion. This is the aspect which has consistently weighed with this Court right from the decision in the matter of **Apoorva D/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee no. 1 and others; 2018 (6) Mh.L.J. 401.**

9. The writ petition is partly allowed.

10. Impugned order of the committee is quashed and set aside. The committee shall issue validity certificate to him as belonging to Mannervarlu scheduled tribe immediately which shall be subject to the decision that would be taken by the committee in the matters of father of the petitioner, his paternal uncles and Vitthal Pallewad.

11. The petitioner will not be entitled to claim any equities and the benefits derived by him would stand revoked automatically if the validity certificates of all the relations are revoked or are cancelled.

12. We direct the scrutiny committee to conclude the proceedings wherever they have decided to reopen the validities as expeditiously as possible and in any case within six months, ofcourse after the decision of this Court in Writ Petition No. 623 of 2022 and in case it is dismissed.

13. It would be imperative for the petitioner 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 even this Court may revoke the conditional validity granted to the petitioner.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

mkd/-