

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

WRIT PETITION NO. 12788 OF 2021

Poonam d/o Balaji Pupalwad,
Age 21 years, Occ. Student,
R/o. At post Lahan, Tq. Ardhapur,
Dist. Nanded.

... **Petitioner**

VERSUS

- 1) The State of Maharashtra,
Through its Principal Secretary
Medical Education Department,
Mantralaya Mumbai 32.
- 2) The Commissioner & Competent Authority
Government of Maharashtra,
State Common Entrance Test Cell,
8th Floor, New Excelsior Building,
A.K. Nayak Marg, Fort,
Mumbai 400 001.
- 3) Deputy Director (Research)
and Member Secretary,
Scheduled Tribe Certificate
Verification Committee,
Near Saint Lawrence High School
Town Centre, CIDCO, Aurangabad,
District Aurangabad.

... **Respondents**

...
WITH

WRIT PETITION NO. 13115 OF 2021

Pooja d/o Balaji Pupalwad,
Age 19 years, Occ Student,
R/o. At post Lahan, Tq. Ardhapur,
Dist. Nanded.

... **Petitioner**

VERSUS

- 1) The State of Maharashtra,
Through its Principal Secretary
Medical Education Department,

Mantralaya Mumbai 32.

- 2) The Commissioner & Competent Authority
Government of Maharashtra,
State Common Entrance Test Cell,
8th Floor, New Excelsior Building,
A.K. Nayak Marg, Fort,
Mumbai 400 001.

- 3) Deputy Director (Research)
and Member Secretary,
Scheduled Tribe Certificate
Verification Committee,
Near Saint Lawrence High School
Town Centre, CIDCO, Aurangabad,
District Aurangabad.

... Respondents

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Advocate for the Petitioners : Mr. C.R. Thorat
A.G.P. for the Respondents/State : Mr. S.G. Sangale

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

DATE : **21.09.2023**

PER COURT :

Heard both the sides.

2. The petitioners in both these petitions are real sisters and are challenging the common judgment and order passed by the respondent-scrutiny committee confiscating and cancelling their certificates of 'Mannervarlu' scheduled tribe.

3. The learned advocate for the petitioners would take us through the record and would submit that petitioners' second degree cousin by name Ajay Ananda Pupalwad has been granted certificate of validity in the year 2008 after following due process of law. Even if the committee has now formed an opinion that he was successful in obtaining the certificate of

validity by resorting to fraud, till the time the committee does not undertake a fresh enquiry by issuing a notice to him and does not confiscate and cancel the certificate of validity, the petitioners cannot be denied the benefit in view of the decision in the matter of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others; 2023 SCC Online SC 326*** . He would submit that due process was followed while granting him the certificate of validity. A vigilance enquiry was conducted and there was no procedural lapse.

4. The learned advocate for the petitioners would submit that there was consistent favourable record which has been lightly brushed aside by the committee. Couple of stray entries have been resorted to discard the petitioner's favourable record. The petitioners had expressly denied in their reply to the vigilance report about these individuals whose contrary record has been relied upon by the committee are their blood relations and that being the only contrary record the observation and conclusion of the committee in discarding the favourable record is clearly arbitrary and perverse.

5. The learned A.G.P would support the order. He would submit that contrary record of older time was revealed during the vigilance enquiry which would out way the favourable record of the subsequent period. He would then submit that the validity being relied upon by the petitioner in favour of their second degree cousin Ajay Ananda had obtained certificate of validity by relying upon the validity of one Laxman Dhondiba Pupalwad who did not relate to him by blood from the paternal side. He would submit that the committee has power to undertake a review of the validity granted to Ajay Ananda in view of the decision in the matter of ***Raju Ramsing Vasave Vs. Maheso Deorao Bhivapurkar and ors; 2009(1) Mh.L.J. SC 1***, no fault can be found with the committee in resorting to undertake that rescrutiny and refusing to grant benefit of his validity to the petitioners.

6. We have carefully considered the rival submissions and perused the papers. The impugned order reproduces the record wherein the petitioners' blood relations have been referred to as 'Mannervarlu'. The committee has refused to give weightage to this favourable record by observing that there is a contrary record of Ananda Gangaram Badalwad, Anysaya Gangaram Badalwad and Rama Gangaram Pupalwad wherein they have been described as 'Mannurwar' and 'Mannurwad'. Apparently, in response to the vigilance report, the petitioners had denied about any relation with these individuals. If this is so, there is absolutely no whisper in the impugned order which would enable us to refute the stand being taken by the petitioners denying any blood relations with these individuals. The conduct of the committee in referring to the adverse entries in respect of the persons who cannot be demonstrated to be petitioners' blood relations and discarding the favourable record is clearly perverse and arbitrary and not sustainable in law.

7. So far as the validity possessed by petitioners' second degree cousin Ajay Ananda is concerned, even if the committee has now decided to reopen his case for the alleged fraud, we are not inclined to make any observations in respect of the circumstances which according to the committee constitutes fraud for the simple reason that the validity holder Ajay Ananda is not before us and we do not intend to make any observations which would adversely affect his interest.

8. The fact remains that when the committee has not made any observation to the effect that Ajay Ananda was granted certificate of validity without following due process of law, till the time his validity holds the field, the petitioners cannot be denied the benefit of the validity in the light of the decision in the matter of *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti (supra)*.

9. The impugned order is not sustainable in law and is liable to be

quashed and set aside.

10. The Writ Petition is partly allowed. The impugned judgment and order is quashed and set aside. The respondent-scrutiny committee shall immediately issue certificates of validity to the petitioners of '*Mannervarlu*' scheduled tribe. It shall be subject to the final outcome of the matters which the committee has decided to reopen.

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

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

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