

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10954 OF 2022

Madhavi Gorakhnath Wagwad
Age : 19 years, Occu : Education,
R/o. Marwali, Tq. Naigaon,
Dist. Nanded

.. Petitioner

Versus

- 1] The State of Maharashtra
Tribal Development Department
through its Principal Secretary
Mantralaya, Mumbai – 32
- 2] Scheduled Tribe Certificate
Scrutiny Committee, Kinwat
(Having its Headquarter at Aurangabad)
through its Member Secretary
- 3] State Common Entrance Test Cell,
Maharashtra, Mumbai
8th Floor, New Excelsior,
A.K. Nayak Marg, Fort, Mumbai,
through its Commissioner &
Competent Authority

.. Respondents

...
Advocate for petitioner : Mr. Mahesh S. Deshmukh
AGP for the respondent – State : Mr. A.S. Shinde
...

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

DATE : 7 JULY 2023

ORDER (MANGESH S. PATIL, J.) :

Heard.

2. Rule. Rule is made returnable forthwith. Learned AGP waives service for all the respondents. At the joint request, the matter is heard finally at the stage of admission.

3. The petitioner is aggrieved by the order passed by the respondent - scrutiny committee under the 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 Act, 2000, whereby her claim as belonging to *Koli Mahadeo* scheduled tribe has been rejected.

4. We have heard learned advocate Mr. Deshmukh for the petitioner and learned AGP Mr. Shinde extensively.

5. Mr. Deshmukh took us through the papers to demonstrate as to how the petitioner's claim was substantiated by not only the documentary evidence and few validities in the blood relation but also the affinity test conducted during the vigilance cell inquiry.

6. Apart from anything else Mr. Deshmukh would emphasize on the fact that one Sujit Navnath, Wagwad and Chandrakant Navnath Wagwad who are petitioner's cousins and their father Navnath have been issued with validity certificate *albeit* Sujit and Chandrakant have been granted such validity by this Court conditionally, in writ petition

no. 8185 of 2020 by the order dated 11-12-2020. He would submit that in the light of the decisions 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*** and even ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others; 2023 SCC Online SC 326***, since there is no dispute as to the blood relation between the petitioner and those validity holders even she deserves to be granted, may be a conditional validity.

7. Per contra, learned AGP Mr. Shinde would strenuously submit that petitioner's paternal uncle Navnath had obtained the validity by resorting to fraud. The fact that petitioner's father Gorakhnath's claim was invalidated in the year 1995 was not disclosed to the committee when Navnath obtained the validity or even when this Court granted conditional validity to Navnath's son Sujit and Chandrakant. He would submit that it is a clear case of fraud not only on the committee but on this Court and not even a conditional validity be issued to the petitioner.

8. We have carefully considered the rival submissions and perused the papers.

9. It does appear that the petitioner's father Gorakhnath's claim was invalidated on 30-05-1995 and in the matter of Sujit and

Chandrakant this fact was disclosed. It may be noticed that there is a clear reference about Navnath himself and their another blood relation Sumanbai Baliram Wagwad having obtained validity certificate without disclosing invalidity of petitioner's father Gorakhnath, as can be seen from clause (viii) in the reasoning to issue no. 2. If this be so when Sujit and Chandrakant were before this Court against the order of rejection of their claim and when this Court granted conditional validity to both of them, it cannot be said that the fact regarding Gorakhnath's invalidation was hidden when it was easily available to be seen in the order of the scrutiny committee which was under challenge before this Court.

10. We need not go into the reasoning of the scrutiny committee on merits in the matter of the petitioner. Following the trend being adopted by this Court in view of the decision in the matter of **Apoorva Vinay Nichale** (supra) and even **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti** (supra) since admittedly, petitioner's paternal uncle Navnath holds a validity certificate and his two sons have been granted conditional validity, the petitioner cannot be deprived of the benefit of having a conditional validity which could be made subject to the outcome of the decision to be taken in the matter of Navnath which the committee intends to re-open. To follow such course appeals to the reason as well as the logic.

11. We allow the writ petition partly, quash and set aside the impugned order and direct the respondent - scrutiny committee to issue tribe validity certificate to the petitioner of *Koli Mahadeo* scheduled tribe within two weeks which shall be subject to the outcome of the decision in the matter of Navnath which the committee intends to re-open.

12. The petitioner, however, shall not be entitled to claim equities.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/