

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

958 Writ Petition No. 11103 / 2022

Saurabh s/o Sunil Machewad

...Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary
Tribal Development Department,
Mantralaya, Mumbai.
2. The Deputy Director (Research)
and Member Secretary,
Scheduled Tribe Certificate
Verification Committee, Kinwat
Headquarter Aurangabad
Near Saint Lawrence High School,
Town Centre, CIDCO, Aurangabad,
Dist. Aurangabad.

...Respondents

AND

959 Writ Petition No. 11104 / 2022

Hrithik s/o Sunil Machewad

...Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary
Tribal Development Department,
Mantralaya, Mumbai.
2. The Deputy Director (Research)
and Member Secretary,
Scheduled Tribe Certificate
Verification Committee, Kinwat
Headquarter Aurangabad
Near Saint Lawrence High School,
Town Centre, CIDCO, Aurangabad,
Dist. Aurangabad.

...Respondents

960 Writ Petition No. 11105 / 2022

Nishita d/o Baburao Machewad

...Petitioner**Versus**

1. The State of Maharashtra,
Through its Secretary
Tribal Development Department,
Mantralaya, Mumbai.
2. The Deputy Director (Research)
and Member Secretary,
Scheduled Tribe Certificate
Verification Committee, Kinwat
Headquarter Aurangabad
Near Saint Lawrence High School,
Town Centre, CIDCO, Aurangabad,
Dist. Aurangabad.

...Respondents**961 Writ Petition No. 11106 / 2022**

Shweta d/o Ramanand Machewad

...Petitioner**Versus**

1. The State of Maharashtra,
Through its Secretary
Higher and Technical Education Department,
Mantralaya, Mumbai.
2. The Director of Technical Education
Maharashtra State,
3, Mahapalika Marg, Opp. Metro Cinema,
Mumbai.
3. The Deputy Director (Research)
and Member Secretary,
Scheduled Tribe Certificate
Verification Committee, Kinwat
Headquarter Aurangabad
Near Saint Lawrence High School,
Town Centre, CIDCO, Aurangabad,
Dist. Aurangabad.

4. Viva Institute of Technology, Shirgaon,
Tq. Vasai, Dist. Palghar,
Through the Principal

...Respondents

Mr. Chandrakant R. Thorat, Advocate for the Petitioners in all
petitions.

Mr. S. G. Sangale, AGP for respondents/State.

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

DATE : 26 SEPTEMBER 2023.

FINAL ORDER [SHAILESH P. BRAHME, J.] :

. Heard learned Counsels for the parties finally at the admission stage.

2. The petitioners' claim to be belonging to the Mannervarlu scheduled tribe. They are related inter se. Their tribe certificates are invalidated by common judgment and order dated 10.10.2022 by the respondent/Scrutiny Committee and the certificates are confiscated. The common judgment and order is questioned by them by these petitions. For the sake of convenience, we propose to refer to the papers of Writ Petition No.11103/2022. There is selfsame record and hence the petitions are decided by common judgment.

3. The petitioners have placed reliance on number of validity certificates issued in their family. A genealogy is placed on record which is disputed by the respondent. The learned Advocate for the petitioners submits that the validity certificates are issued after

following due procedure of law and by speaking orders. There was vigilance enquiry upon which the petitioners are relying. He would submit that the Scrutiny Committee committed patent illegality in rejecting the tribe claims. The learned Advocate for the petitioners has placed on record the text of the order dated 04.03.2023 passed by this Court in Writ Petition No.10791/2023 in the matter of Amit S/o Bramhanand Machewad and Others Vs. State of Maharashtra and Another and the genealogy. He would submit that the validity certificate would enure to the benefit of the petitioners.

4. Per-contra the learned AGP supports the impugned judgment and order. According to him, the Scrutiny Committee has rightly rejected the caste claim considering the incompatible school record of the relatives of the petitioners. The revenue record is also supportive. The validity certificates are rightly discarded by the Committee being procured by the suppression of material facts. It is urged that there is no reason to interfere with the impugned judgment and order.

5. We have considered the rival submissions of the parties. The impugned judgment at its page no.75(c) refers to in all 21 validity certificates issued to paternal side relatives of the petitioners. Additionally, there are three validity holders. It is evident that on number of occasions the record has been scrutinized. The Scrutiny Committee has no jurisdiction to take contrary view on the basis of selfsame record scrutinized earlier. We find that the impugned judgment and order is patently illegal.

6. The learned Counsel for the petitioners has placed on record two judgments of the High Court. First one, is Writ Petition No.10791/2023 in the matter of Amit S/o Bramhanand Machewad and Others (supra) and another is Writ Petition No.11400/2023 in the matter of Rameshwar Uttamrao Machewad Vs. State of Maharashtra Through its Principal Secretary and Others. We find that all these petitioners are figuring in the genealogy. They are issued validity certificates conditionally by speaking orders. We propose to adopt the same course.

7. We find that there is cogent evidence on record including temporary evidence of pre-constitutional period to corroborate that petitioners belong to Mannervarlu scheduled tribe. The Scrutiny Committee has committed grave illegality in rejecting tribe claim of the petitioners. We, therefore, dispose of these petitions by passing following order.

ORDER

- (i) The writ petitions are partly allowed.
- (ii) The common judgment and order dated 10.10.2022 passed by the Scrutiny Committee is quashed and set aside.
- (iii) The Scrutiny Committee shall issue tribe validity certificates of 'Mannervarlu scheduled tribe' to the petitioners forthwith which shall be subject to the outcome of re-verification intended to be undertaken by the Scrutiny Committee.

(iv) The petitioners shall not be entitled to claim equities.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

NAJEEB/..