

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11860 OF 2023

1] Sandip S/o Gangadhar Bodhankar
2] Satish S/o Gangadhar Bodhankar .. Petitioners

Versus

1] The State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai

2] The Scheduled Tribe Caste Certificate
Verification Committee, Kinwat
Head Quarter at Aurangabad
Through its Dy. Director (R),
Dist. Aurangabad .. Respondents

...
Advocate for petitioners : Mr. S.M. Vibhute
AGP for the respondent – State : Mr. S.G. Sangale
...

**CORAM : MANGESH S. PATIL &
NEERAJ P. DHOTE, JJ.**

DATE : 01 NOVEMBER 2023

ORAL ORDER (MANGESH S. PATIL, J.) :

Heard both the sides finally at the stage of admission.

2. Petitioners are challenging the order whereby respondent – scrutiny committee by resorting to section 7(2) of the Maharashtra Act No. XXIII of 2001 has confiscated and cancelled their Mannervarlu scheduled tribe certificates.

3. Learned advocate for the petitioners submits that a similar claim of petitioners' real cousin Shubham Ashok Bodhankar was rejected by the committee for similar reasons as are recorded in the order which is under challenge in the writ petition. In writ petition no. 566 of 2022, Shubham had challenged the order of invalidation. After considering inter-alia the fact that there were 9 paternal relatives who were issued with certificates of validity as mentioned in that order, this Court had directed the certificate of validity to be issued to him subject to the final outcome of the matters of the validity holders which the committee had decided to reopen. Learned advocate submits that there being no dispute about the genealogy, the petitioners be granted the conditional validity certificates. He admits that notices have been received by some validity holders.

4. The learned AGP submits that the committee has for the reasons recorded in the impugned order, decided to undertake fresh scrutiny of the validity holders for the fraud which the committee perceives about having practised by the validity holders on the then committee which issued validity certificates to them. He fairly concedes that there is no dispute as far as genealogy is concerned in the light of the observations of the committee in the impugned order wherein the committee has considered the aspect of extending the benefit of validity possessed by the blood relatives.

5. Admittedly, there are sufficient validity holders in the blood relationship as has been mentioned in the impugned order in paragraph no. 7. Even if the committee now perceives that there was fraud practised by them on the then committees, it would be a factual issue which would be directly and substantially under consideration of the committee in the matters which it has already re-opened. Those validity holders are not parties to this petition and we consciously refuse to undertake any scrutiny as to the circumstances based on which the committee has now formed an opinion that the validity holders had practised fraud.

6. Conspicuously, the impugned order does not mention that the validity holders were issued certificates of validity without following due process which is a parameter to be borne in mind in the light of the decision of the Supreme Court in the matter of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others; 2023 SCC Online SC 326***. If that be so when there are sufficient validities which are still in operation, and still to be confiscated and cancelled when the first degree cousin – Shubham was also directed to be issued the certificate of validity by this Court, keeping open all the issue, the petitioners also would be entitled to have conditional validity.

7. In the result, the following order:-

I) The writ petition is partly allowed. The impugned order is quashed and set aside. The respondent - committee shall immediately issue tribe validity certificates to the petitioners as belonging to 'Mannervarlu' scheduled tribe in the prescribed format without adding anything. The validities shall be subject to the final outcome of the matters which the committee has decided to re-open.

II) The petitioners shall not be entitled to claim equities.

[NEERAJ P. DHOTE]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/