



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.11740 OF 2018

Ravi s/o Dattatray Jayewar
Age: 19 years, Occu: Education,
Through their Natural guardian (father)
Dattatray Nagnath Jayewar
Age: 48 years, Occu: Former
At. Post. Kundalwadi
Tq. Biloli, Dist. Nanded

... Petitioner

Versus

1. The State of Maharashtra,
Through a Secretary,
Higher and Technical Education Department,
Mantralaya, Mumbai

2. The Scheduled Caste and Scheduled Tribe Certificate
Verification Committee Aurangabad,
Through its Dy. Director (R),
Aurangabad Dist. Aurangabad

3. The Cambridge Junior College
Shivaji Nagar at Nanded,
District Nagpur
Through its Principal

... Respondents

...

Mr. Ashwin V. Hon and Mr. C. A. Jadhav, Advocate for the Petitioner
Mr. V. M. Jaware, AGP for the Respondents/State

...

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

DATE : 04.12.2023

PER COURT :

- . Heard both the sides.
2. Rule. Rule is made returnable forthwith. At the joint request of the parties, the matter is heard finally at the stage of admission.
3. The petitioner is challenging the order of invalidation.
4. The learned Advocate for the petitioner submits that the petitioner's paternal uncles, namely, Shankar Nagnath and Krushna Nagnath possess certificates of validity. Krushan's children - Chiranjivee and Rupa have also been issued with certificates of validity. Apart from that there are other validities in the family, wherein, petitioner's distant cousins - Jagdish Lachhamanna, Raju Lachhamanna and Maroti Potanna were granted certificates of validity. The Committee has refused to extend the benefit of these validities on the ground that they were not issued within the four corners of law. The Committee has decided to re-open those validities but except issuing notices has not proceeded further. The petitioner is ready to run the risk of facing the consequences contemplated in the matter of **Shweta Balaji Isankar Vs. State of Maharashtra and Ors.** in **Writ Petition No.6320/2017** and he may be granted certificate of validity subject to the final outcome of the decision to be taken in the matters which the Committee has decided to re-open.
5. The learned Advocate would further submit that though the Committee has used a contrary school record of one Rajganga Chinanna stated to be petitioner's grand father's sister of the year 1963, it was not forming part of the vigilance inquiry report. No opportunity to meet it was ever extended and in the light of **Sayanna**

Vs. State of Maharashtra; (2009) 10 SCC 268, the Committee could not have used this contrary material behind the petitioner's back.

6. The learned Advocate would lastly submit that the Committee's approach is perverse and arbitrary. It has relied upon couple of so called manipulated entries of the years 1974 and 1978 but has ignored number of favourable entries all throughout.
7. Per contra, learned AGP submits that the oldest school record of the petitioner's paternal uncles was found to be manipulated. All the favourable record is of subsequent period. The validities issued to the validity holders were issued either without examining the record or labouring under concealment of material facts. The Committee has the power and has decided to undertake fresh scrutiny of the certificates of validity issued to the family members.
8. Having heard both the sides, suffice for the purpose to bear in mind the fact that there are number of validity holders in the family. Even if the Committee has now refused to rely upon them and to extend the benefit to the petitioner, till the time, their certificates of validity are not confiscated and cancelled by following due process of law, the petitioner cannot be denied to derive the benefit more so, when he is ready to run the risk of facing the consequences as contemplated in the matter of **Shweta Balaji Isankar Vs. State of Maharashtra and Ors. (Supra)**.
9. Again ignoring the parameters laid down in the matter of **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and Ors.; 2023 SCC Online SC 326**, the Committee has refused to

extend the benefit of the validity possessed by Shankar Nagnath Jayewar, Rupali Krushna Jayewar and Raju Lachhamanna Jayewar on the ground that no vigilance inquiry was conducted. However, similar is not the observations in respect of the validities granted to Jagdish Lachhamanna Jayewar and Maroti Lachhamanna Jayewar which were first in point of time. Meaning thereby that it cannot be said that Jagdish Lachhamanna and Maroti Lachhamanna were issued certificates of validity without following due process of law. If that be so, the petitioner is entitled to derive the benefit of their validities, even if the parameters laid down in the matter of **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and Ors.** (*Supra*) are applied.

10. Independently, though the Committee has referred to a contrary school record of the sister of the grand father, this is an adverse material being used by the Committee behind the petitioner's back. This was not revealed in the vigilance inquiry and was not a part of its report to which the petitioner's response was called. There was no opportunity for the petitioner to meet this adverse entry. Using such adverse entry for the first time while deciding the claim, without there being any knowledge to the petitioner, would run afoul to the decision in the matter **Sayanna Vs. State of Maharashtra** (*Supra*).
11. Even if the Committee has now referred to couple of other alleged manipulations in the school record of petitioner's uncles – Sainath Nagnath and Krushna Nagnath and even if now the Committee has decided to undertake fresh scrutiny of Krushna Nagnath's validity, whether in fact the circumstance would constitute a fraud would be a matter which can be gone into and decided in the matter which the Committee has now decided to re-open. They are not before us. We

do not intend that any prejudice is caused to them by embarking upon sustainability of these circumstances which according to the Committee constitute fraud.

12. In these circumstances, the impugned order refusing to extend the benefit of the validities in the family, even before those validities are confiscated and cancelled are perverse and arbitrary. Hence, we proceed to pass the following order:

ORDER

- (i) The Writ Petition is allowed partly. The impugned order is quashed and set aside.
- (ii) The respondent – Committee shall immediately issue certificate of validity to the petitioner of ‘Mannervarlu’ Scheduled Tribe.
- (iii) The certificate of validity would be subject to the final outcome of the matters which the Committee has decided to re-open in respect of the validity holders.
- (iv) The validity holders shall co-operate the Committee in early decision of their matters.
- (v) The petitioner shall not be entitled to claim equities.
- (vi) Rule is made absolute in the above terms.

[NEERAJ P. DHOTE, J.]

[MANGESH S. PATIL, J.]