

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11731 OF 2018

1] Sourabh S/o Babu Basapure
Age : Minor Occ. Education

2] Swapnil S/o Babu Basapure,
Age : Minor Occ. Education

Through their Natural Guardian (father)
Babu S/o Pundlik Basapure
Age – 48, Occu - Farmer
At Post Kundalwadi
Tq. Biloli, Dist. Nanded

.. Petitioners

Versus

1] The State of Maharashtra,
Through 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 College of Agriculture Naigaon
At Naigaon, Tq. Naigaon,
District Nanded

4] Shri Chatrapati Shahu Maharaj,
Sainiki Vidyalaya, Udagir,
Tq. Udagir District Latur,
Through its Principal

.. Respondents

...
Advocate for petitioners : Mr. V.D. Hon, Sr. Advocate i/b. Mr. A.V. Hon
AGP for the respondent – State : Mr. P.S. Patil
Respondents no. 3 and 4 served - absent
...

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

DATE : 19 JUNE 2023

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

Heard the learned Senior Advocate Mr. Hon for the petitioners and learned AGP Mr. Patil.

2. Perused the record including the impugned order of the Scrutiny Committee invalidating the petitioners' claim as belonging to Mannervarlu Scheduled Tribe.

3. Learned Senior Advocate Mr. Hon would vehemently submit, perhaps anticipating the arguments from the other side, that the committee has refused to consider the validities of the relatives namely, Rohit Ramesh Basapure and his sister Shravya Ramesh Basapure stated to be the distant cousins of the petitioners. The committee has assigned the reasons and even has expressed its intention to re-open the case of Rohit.

4. As has been submitted by him even the learned AGP Mr. Patil submits that the case of Rohit has been re-opened hearing has taken place and the enquiry is to be concluded in a short time.

5. Mr. Hon would, therefore, submit that irrespective of anything else once it is admitted that Rohit has blood relation with the petitioners from paternal side, the observations 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*** and particularly paragraph no. 22 would be relevant and would be

applicable. Assuming that Rohit had obtained the validity and the committee has granted it labouring under some fraud or misrepresentation, still, it is a matter under scrutiny and still to reach finality. So long as Rohit holds the validity, the petitioners are entitled to come under the umbrella. The committee may take its own decision in due course but for the time being the petitioner's interest will have to be protected. He submits that this Court, depending upon the validity of Rohit and his sister Shravya can grant validity to the petitioner which can be made subject to the ultimate decision in the matter of Rohit. This would be the logical course to be adopted to protect the interests of the petitioner.

6. Mr. Hon would further submit that the reasons assigned by the Scrutiny Committee for discarding the validity are not sound. Those will have to be substantiated and which can happen only in the matter of Rohit which has been re-opened, however, at this juncture this Court cannot sit in appeal and undertake that scrutiny even if some original record is produced and it shows *prima facie* about some apparent manipulation in the school record.

7. The learned advocate Mr. Hon would further refer to the course adopted by this Court in considering a similar fact situation in the matter of writ petition no. 1744 of 2020 (***Pratibha Narayan Gudalod Vs. State of Maharashtra and others***) and her sister

Sangita Narayan Gudaold (writ petition no. 1754 of 2020) by the order dated 08-06-2023.

8. Learned AGP Mr. Patil would vehemently submit that the committee was alive to the law laid down 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 has also tried to explain away by referring to the decisions in the matter of ***Raju Ramsing Vasave Vs. Mahesh Devrao Bhivapurkar and others; (2008) 9 SCC 54*** and the subsequent decision in the matter of ***Bhagwan Vithji Nannavare Vs. Scheduled Tribe Certificate Scrutiny Committee, Gadchiroli and others*** (P.I.L. no. 11 of 2016 with connected P.I.L. - Nagpur Bench order dated 15-04-2016) as well as ***Jyoti Sheshrao Mupade Vs. State of Maharashtra and others*** (writ petition no. 1954 of 2009 with connected civil applications order dated 22-08-2012), he would submit that the original record of petitioners' file contains a coloured photocopy of the original school register of Ramesh who happens to be the father of Rohit demonstrating apparent manipulation and overwriting so as to convert the word 'Manurvar' as 'Mannervarlu'. It is a serious matter of forgery and fraud has been practiced on the committee while obtaining validity in the matter of Rohit which has subsequently been the basis for granting validity to his sister Shravya. If such is the state of affairs, this being a serious case of fraud, it would vitiate everything including the validity granted to Rohit and Shravya

and even the petitioners would not be entitled to seek its benefit. He would also point out the observations in the last few sentences from paragraph 22 and paragraph 23 from the judgment in the matter of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti*** (supra).

9. In addition, Mr. Patil would point out that in-fact, Rohit as well as Shravya have obtained validities relying upon the affidavit of one Ramod Anil Ganpatrao. They had obtained the validity certificate by asserting that Anil is a blood relative of Rohit and Shravya. In-fact, the affidavit of Anil would demonstrate a genealogy which is not a part of the genealogy and not compatible with the one provided by the petitioners in their matter where the ancestors of Anil cannot be found. He would further submit that even according to Anil, he is related to Rohit from the maternal side of Anil which could not have been relied upon by the committee while granting validity to Rohit.

10. Mr. Patil would further point out that even the case of Rohit was not considered appropriately by the Scrutiny Committee inasmuch as it is a cyclostyled copy of the order wherein blanks were filled in by hand which clearly indicated lack of application of mind. He would further submit that when even the vigilance report submitted at the time of Rohit's matter merely relied on whatever was produced before it by Rohit and his father Ramesh. No independent scrutiny as regards the school record was undertaken by the vigilance cell at that time. Since

such validity was granted labouring under a clear fraud and in a slipshod manner that could not have been relied upon to grant validity to the petitioners. The committee has rightly refused to rely upon these.

11. Obviously once the matter of Rohit has been opened everything will boil down to the ultimate conclusion to be reached in his matter. Admittedly, there is no dispute that may be a distant but there is blood relation between Rohit and the present petitioners. If Rohit is able to sustain his validity, in normal course it would enure to the benefit of the present petitioners irrespective of anything else. Admittedly, the matter in case of Rohit has still to reach finality. It would be anomalous for the petitioners to lose an opportunity to go for further education at this stage and then wait for a final decision in the matter of Rohit. It would certainly be legal and therefore logical, as has been observed in the matter of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti*** (supra) in paragraph 22, once it is found that there is no dispute as to the blood relation between Rohit and the petitioners, for the time being the decision in the matter of Rohit should enure to the benefit of the petitioners.

12. True it is that the matter of Rohit is under scrutiny and may be at the fag end, however, the petitioners' matter was decided by the respondent - scrutiny committee by the impugned order dated

28-08-2018. Even after a lapse of almost 3 years and 10 months, the committee has not been able to take the case of Rohit to its logical end. On one hand, the respondents endeavour to point out fraud having been practised on the committee and its intention to re-open the case of Rohit but on the other hand if the committee has not been able to take a final decision in that case for these many years, we cannot allow the petitioners to suffer.

13. We are intentionally and deliberately avoiding to comment upon the original record available in the files of the petitioners as well as Rohit since in our considered view that could have a bearing on the decision being taken by the scrutiny committee in the matter of Rohit which is stated to be at the fag end. Needless to state that if the committee reaches to a conclusion that Rohit and his sister Shravya had obtained the validity illegally, the consequences would follow. However, that cannot be allowed to be a ground at this juncture to prevent us from following the course which we have been following and even this Court in number of matters has followed of granting the petitioners validity conditionally, as we have done in the matter of ***Pratibha*** (supra).

14. The writ petition is allowed partly.

15. Impugned order of the committee is quashed and set aside in respect of both these petitioners. The committee shall issue validity

certificate to both of them as belonging to Mannervarlu scheduled tribe immediately. These validity certificates shall be subject to the decision that would be taken by the committee in the matter of Rohit Ramesh Basapure.

16. The petitioners will not be entitled to claim any equities and their tribe claims and the benefits derived by them on that basis would stand revoked automatically if the validity certificates of all the relations are revoked or would stand cancelled by virtue of the conditional order.

17. We direct the scrutiny committee to conclude the proceedings wherever they have decided to re-open the validities as expeditiously as possible and in any case within six months.

18. It would be imperative for the petitioner/s as well as his blood relations whose cases are opened or would be opened by the scrutiny committee to co-operate the scrutiny committee in early disposal of such re-opened cases.

19. Any lapse on their part noticed by this Court would be considered seriously and even this Court may revoke the conditional validity granted to the petitioner at any point of time.

[SHAILESH P. BRAHME]
JUDGE

arp/

[MANGESH S. PATIL]
JUDGE