

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 12016 OF 2023

Jayprakash S/o Gangadhar Pupulwad

.. Petitioner

Versus

1] The State of Maharashtra,
Through its Secretary,
Medical Education and Drugs Department,
Mantralaya, Mumbai

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

.. Respondents

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

...

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

DATE : 10 OCTOBER 2023

JUDGMENT (MANGESH S. PATIL, J.) :

Heard. Rule. Rule is made returnable forthwith. In view of the exigency, at the joint request of the parties, the matter is heard finally at the stage of admission.

2. The petitioner is challenging the order of the respondent - scrutiny committee confiscating and cancelling his certificate of Mannernvarlu scheduled tribe issued under the provisions of the Maharashtra Act No. XXIII of 2001.

3. Mr. Vibhute, learned advocate for the petitioner submits that the committee has not doubted the genealogy. Admittedly, the petitioner's other blood relations possess validity issued by the then committees by following due process of law. The petitioner is entitled to derive its benefit in view of the decision in the matter of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others; 2023 SCC Online SC 326***. He would submit that the petitioner is ready to run the risk of facing consequences in the light of decision in the matter of ***Shweta Balaji Isankar Vs. State of Maharashtra and others (writ petition no. 6320 of 2017)***. Though the committee has decided to reopen the validities, till the time the validity certificates granted to the blood relations are not confiscated and cancelled by following the due process of law, petitioner cannot be denied the benefit of those validities.

4. Learned advocate Mr. Vibhute would further submit that the committee has ignored enormous favourable entries and has chosen to refer to few contrary entries wherein the petitioner's ancestors were described as Munurvar, Manervarlu. Due to the phonetic similarity, it could have been human errors. There was no manipulation and the impugned order be quashed and set aside.

5. The learned AGP would oppose the petition. He would submit that the petitioner's blood relations have obtained the validity certificates by practising fraud. The committee has assigned the reasons as to why it has drawn such an inference and has expressly decided to undertake review of all these validity holders' matters which it is legally entitled to. He would submit that the validity certificates were obtained by concealing the contrary record and the petition be dismissed.

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

7. There is no dispute about the fact that several of the petitioner's blood relations possess certificates of validities, the first in point of time issued to Ganpat Gangadhar Pupulwad is of the year 2005. Though the committee has now expressed its intention to undertake review of all these validity holders' matters, the impugned order does not observe that the certificates of validities were not issued by following due process of law. If such is the state-of-affairs, when these validity holders were issued certificates of validity pursuant to the due process of law, following the decision in the matter of ***Maharashtra Adiwasi Jamat*** (supra), the petitioner cannot be denied the benefit of such validities. Till the time the committee does not confiscate and cancel these validity certificates by following due process of law, the

petitioner cannot be deprived of deriving the benefit of having the conditional validity.

8. We do not intend to make any comment on the powers of the committee to undertake a review and the facts which according to the committee constitute fraud or misrepresentation. We are doing so for two reasons; firstly the validity holders are not before us and we do not intend to cause any prejudice to them by making observations in this matter behind their back and secondly, any observation made by us could have a bearing on the matters which the committee has decided to re-open.

9. In the circumstances, when the petitioner is ready to run the risk of facing the consequences, depending upon the decision in the reopened matters of the validity holders, he is entitled to have the conditional certificate of validity.

10. 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 certificate to the petitioner as belonging to 'Mannervarlu' scheduled tribe in the prescribed format without adding anything. The validity shall be subject to the final outcome of the matters which the committee has decided to re-open.

II) The operative part dictated in open court. The learned AGP shall communicate this order to the respondent - Committee immediately, so that the petitioner gets the certificate of validity today itself.

III) The petitioner shall not be entitled to claim equities.

IV) Rule is made absolute accordingly.

[SHAILESH P. BRAHME]
JUDGE

arp/

[MANGESH S. PATIL]
JUDGE