

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

8 WRIT PETITION NO.13692 OF 2021

LAXMAN NARAYAN IJALKAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr. Thorat Chandrakant R.
AGP for Respondent No.1: Mr. S.G. Sangle
Advocate for Respondents 2 to 5 : Mr. A.M. Gaikwad
.....

**CORAM : RAVINDRA V. GHUGE AND
SANJAY A. DESHMUKH, JJ.
DATED : 30th JANUARY, 2023.**

PER COURT :-

1. The petitioner has put forth prayer clauses A, B and C as under:-

- "A] By issuing writ of certiorari or any other appropriate writ or direction in the like nature, be pleased to quash and set aside the judgment and order dated 1911.2021, passed by respondent No.6 Scheduled Tribe Certificate Scrutiny Committee, Aurangabad, Exhibit A.
- B] By issuing writ of mandamus or any other appropriate writ or direction in the like nature, be pleased to direct the respondent No.6 Scheduled Tribe Certificate Scrutiny Committee, Aurangabad to issue Tribe Validity Certificate in favour of the petitioner as belonging to "Mannervarlu" Scheduled Tribe, forthwith.
- C] Be pleased to direct respondent Nos. 2 to 5 to release all the retirement benefits of the petitioner which are withheld on the ground of non submission of the Tribe Validity Certificate."

2. When the first order was passed by this court on 08.12.2021, it was directed that coercive action may not be taken against the petitioner pursuant to the impugned judgment.

3. The learned A.G.P. submits on instructions and on perusal of the record/files of one biological daughter of the petitioner viz. Anita and two biological sons viz. Rajesh and Madhav, that none of the blood relatives of the petitioner have suffered invalidation of the claim of belonging to Mannervarlu Scheduled Tribe category. The biological brother of the petitioner viz. Rameshwar has also been granted validity certificate by the committee. Three sons of Rameshwar viz. (i) Santosh, (ii) Nilesh and (iii) Onkar have also been granted validity certificates under the orders of the High Court. The learned A.G.P. however, submits on instructions that notices for reopening of the cases have been issued to all these validity holders. Therefore, all these validity holders will now be facing the reopening of their cases.

4. The petitioner has recently retired from service on 31.7.2020 from the employment of respondent company. All his retiral benefits have been withheld. He joined the employment on 27.6.1984. The entry in the school record of the petitioner dated 8.7.1969, shows as "Munurwar". The proposal for validation was tendered on 21.9.2013. However, by the impugned order dated 19.11.2021, the claim of the petitioner as "Mannervarlu" Scheduled Tribe has been invalidated.

5. The learned A.G.P. strenuously submits that it would be a purposeless exercise to entertain this petition and grant a conditional validity to the present petitioner since, if the reopened cases lead to invalidation of the claim of any of the validity holders, as referred to above, the petitioner will also have to face the same consequences.

6. We find that this case is squarely covered by the judgment delivered by this Court (Coram : S. C. Dharmadhikari and Smt. Bharati H. Dangre, JJ.), at the Principal Seat, in **WP No.5611/2018 (Shweta Balaji Isankar Vs. State of Maharashtra and Others)**. Considering similar submissions on behalf of the committee, as are recorded herein-above, this Court concluded in **Shweta Balaji Isankar** (supra) in paragraph Nos. 2 to 4, as under:-

“2 On the earlier occasion, we found that though the petitioner produced credible evidence in the form of certificates of validity issued to her real uncle Govind Sambhaji Isankar and which concededly has been issued way back on 5th December 2005 and another certificate of validity dated 5th September 2006 to his cousin uncle Ramdas Sambhaji Isankar, the Committee finds that the certificate of validity issued to the real uncle Govind, is not free from suspicion. It is held by the Committee in the impugned order that a notice to show cause has been issued to said Govind on 14th September 2017, calling upon him to show cause as to why this certificate of should not be cancelled as its issuance is vitiated by fraud or suppression of material facts by the said Govind.

3. On such a finding being rendered by the Committee, we

called upon the learned AGP on the earlier two occasions to produce the record. We also indicated to the learned AGP as to how the certificate of validity is denied to the petitioner though she has established her relationship with the said Govind and only on the ground that a show cause notice has been issued, but no proceedings in furtherance thereof came to be initiated till date. The learned AGP sought time to file an affidavit. Now, the Joint Commissioner, Schedule Tribe Scrutiny Committee, Aurangabad has filed an affidavit in reply. That is taken on record. The said affidavit admits that the certificate of validity has been issued to her real uncle and cousin uncle of the petitioner. The affidavit admits that the petitioner relies heavily on these two documents, but clarifies that there is a suppression detected from the original record of the certificate holder and that is how a show cause notice has been issued to Govind. The show cause notice could not be taken to its logical end on account of the huge pendency of cases before this Committee. In all, 7,000 matters were pending on the date when this Joint Commissioner took charge and he has reduced the pendency by 2500 cases being decided. In the circumstances, he says that appropriate orders and directions be issued by this Court.

4. *We are not impressed by this explanation and the justification not to proceed against a person who has perpetrated a fraud on the public. If it is a serious allegation and which is termed as fraud, then, it should have been taken to its logical end. Mere issuance of a show cause notice in the present case would not suffice for there are two certificates of validity relied upon. The only reason assigned in the impugned order to discard them, cannot be sustained. The justification in the above affidavit is also not enough to straightaway discard the certificates of validity issued in the family. It is conceded that other reasons assigned in the impugned order cannot be supported in*

law.”

7. Finally, this Court concluded in ***Shweta Balaji Isankar*** (supra) in paragraph No.8, as under:-

“8 This order does not prevent the Committee from proceeding against Govind in accordance with law and needless to further clarify that in the event Govind’s claim is invalidated, all the consequences shall be taken by the petitioner as well.”

8. In view of the above and considering the law laid down by this Court in ***Apoorva d/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee, 2010 (6) Mh.L.J. 401***, this petition is partly allowed. The impugned order dated 19.11.2021 is quashed and set aside. Respondent No.6 committee is directed to issue a Mannervarlu Scheduled Tribe validity certificate to the petitioner, on or before 10.2.2023, since the petitioner has not received any retiral benefits.

9. Needless to state, in the event of invalidation of the claim of any of the aforesaid validity holders, in view of the reopening of their cases, the consequences of invalidation which would be suffered by any of these candidates, would also befall upon the petitioner and he would, therefore, be liable to suffer the same consequences.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE , J.)