

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

73 WRIT PETITION NO.12767 OF 2023

1. Sunil s/o Namdeo Bhotkar,
aged 30 years,
Occu: Police Constable in SRPF,
r/o Sasurwada-Hatti tq. Sillod
Dist. Aurangabad
2. Anilkumar @ Anil s/o Mahatarji Bhotkar,
aged 50 years
Occu : Teacher, Panchayat Samithi, Sillod
r/o as above
3. Manoj s/o Shivram Bhotkar,
aged 28 years
Occu: Line Assistant, MSEDCL
r/o as above

....PETITIONERS

VERSUS

1. The State of Maharashtra,
Through Secretary, Home Department,
Mantralaya, Mumbai
2. The Director General of Police,
Colaba, Mumbai
3. The Block Education Officer,
Panchayat Samiti, Sillod,
Dist. Sambhajnagar (Aurangabad)
4. The Executive Engineer,
Maharashtra State Electricity Distribution
Co. Ltd., Waduj,
tq. Khatav Dist. Satara
5. The Scheduled Tribe Certificate
Scrutiny Committee,

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Through its Joint Commissioner,
Sambhajinagar (Aurangabad)

....RESPONDENTS

....
Mr S. M. Kulkarni and Mr Yogesh R. Suradkar, Advocates for
Petitioners;
Mr S. G. Karlekar, A.G.P. for Respondent Nos.1, 2 & 5

**CORAM : RAVINDRA V. GHUGE
AND
Y. G. KHOBRADE, JJ.**

DATE : 17th October, 2023

ORAL JUDGMENT (Per:- Ravindra V Ghuge, J):

1. Rule. Rule made returnable forthwith and heard finally by the consent of the respective parties.
2. The Petitioners before us are Sunil Namdeo Bhotkar, Anilkumar @ Anil Mahatarji Bhotkar and Manoj Shivram Bhotkar. All are in employment. They are aggrieved by the common order dated 28/09/2023, by which, Respondent No.5/ Scrutiny Committee has invalidated their claims of belonging to the 'Koli Malhar' Scheduled Tribe category.
3. The learned Advocate for the Petitioners Shri. S. M. Kulkarni has ably assisted us by placing on record a clear descriptive genealogy/family tree, which dates back to almost 5 to 6 generations. The said family tree is marked as 'X' for

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identification and is made a part of this order. There are about 14 validity holders amongst the blood relatives from the paternal side. We have marked ("V") in red ink in front of the names so as to indicate the persons, who are holding the validity certificates amongst the blood relatives.

4. Recently, a Co-ordinate Bench of this Court has delivered an order on 29/09/2023 in Writ Petition No.12108/2023, thereby granting conditional validity certificates to the four Petitioners therein, namely, Mahesh Janardhan Bhotkar, Sagar Anilkumar Bhotkar, Rahul Janardhan Bhotkar and Sandesh Anilkumar Bhotkar. Sagar and Sandesh are the biological sons of Petitioner No.2 Anilkumar @ Anil Mahatarji Bhotkar, who is before us. Mahesh and Raul are biological brothers and the sons of Janardhan Bhotkar. Janardhan also has a validity certificate. Janardhan's father Gangaram s/o Chandruba is from the branch of Sayaji s/o Rayaji Bhotkar. Anilkumar and his biological brother Nathuram (whose son Rajkumar has a validity certificate), are from the branch of Mahatarji s/o Deuba Devaji, who is the son of Devaji Rayaji Bhotkar. Ramkrushna and his two biological sons Abhishek and Ajay are also from the branch of Deuba Devaji s/o Rayaji Bhotkar. Petitioner No.3/Manoj is the son of Shivram

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Bhimrao Bhotkar, who has a validity certificate. Shivram s/o Bhimrao is from the branch of Pandu Jayram s/o Jayaji Rayaji Bhotkar. Sayaji, Devaji, Jayram are the biological brothers.

5. The learned A.G.P. has brought to our notice that several validity holders from the family tree of the Petitioners, have been granted conditional validity certificates in the light of the law laid down at the Principal Seat of this Court (Coram :- S. C. Dharmadhikari and Bharati H. Dangre, JJ.) in the matter of **Shweta Balaji Isankar Vs. State of Maharashtra and others, 2018 SCC OnLine Bom 10363**. He further points out that there were certain adverse entries and interpolations in the present cases. He clarifies on instructions that, none of the cases in which the validity certificates were granted earlier, have been reopened as on date. In these circumstances, the law laid down in Shweta Balaji Isankar (supra) has been followed.

6. This Court has concluded in Shweta Balaji Isankar (supra) in paragraph Nos.2 to 4 and 8, 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

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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 validity 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.”...

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.”

7. In view of the above, **this Writ Petition is partly allowed.** The impugned order dated 28/09/2023 is quashed and set aside. The claims of these Petitioners are accepted, and we direct Respondent No.5/Scrutiny Committee, to issue validity certificates to these three Petitioners within 15 days from today, since these Petitioners are under a threat of termination of their services.

8. If any of the cases having validities, who figure in the family tree 'X', suffer reopening of cases and suffer

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invalidation, the consequences suffered by such erstwhile validity holders, would befall upon these Petitioners, who would also be liable to suffer the same consequences.

9. Rule is made partly absolute in the above terms.

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)

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