

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

WRIT PETITION NO. 12570 OF 2023

Shivam Shankar Maisanwad,
Age : 23 years, Occu. : Student,
R/o Swami Vivekanand Nagarwadi,
Near Farande Nagar, Pawadewadi,
Nanded.

.. Petitioner

Versus

1. The State of Maharashtra.
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai – 32.
2. The Scheduled Tribe Certificate
Scrutiny Committee, Kinwat
Division, Aurangabad,
Through its Member Secretary.
3. Sub Divisional Officer (Revenue),
Nanded (MS).

.. Respondents

**WITH
WRIT PETITION NO. 12575 OF 2023**

Vaishnavi Shankar Maisanwad,
Age : 21 years, Occu. : Student,
R/o Swami Vivekanand Nagarwadi,
Near Farande Nagar, Pawadewadi,
Nanded.

.. Petitioner

Versus

1. The State of Maharashtra.
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai – 32.

2. The Scheduled Tribe Certificate
Scrutiny Committee, Kinwat
Division, Aurangabad,
Through its Member Secretary.
3. Sub Divisional Magistrate,
Bhokar .. Respondents

**WITH
WRIT PETITION NO. 12576 OF 2023**

Shreya Balajirao Maisanwad,
Age : 22 years, Occu. : Student,
R/o A/p Ritha post Pandurana,
Tq. Bhokar, Dist. Nanded. .. Petitioner

Versus

1. The State of Maharashtra.
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai – 32.
2. The Scheduled Tribe Certificate
Scrutiny Committee, Kinwat
Division, Aurangabad,
Through its Member Secretary.
3. Sub Divisional Magistrate,
Bhokar .. Respondents

Shri Madhur A. Golegaonkar, Advocate for the Petitioners in all
matters.
Shri S. G. Sangle, A.G.P. for the Respondents/State in all
matters.

**CORAM : MANGESH S. PATIL AND
SHAILESH P. BRAHME, JJ.
DATE : 10 OCTOBER 2023.**

FINAL ORDER (*Per Shailesh P. Brahme, J.*) :-

. Heard learned counsel for respective sides finally at the admission stage.

2. The petitioners claim to be belonging to the Scheduled Tribe 'Mannervarlu'. They are related interse. Their tribe certificates are invalidated by the common judgment and order dated 15.09.2023 by the respondent No. 2/Scrutiny Committee, which is a cause for them to approach this Court. For the sake of convenience, we propose to refer the papers of Writ Petition No. 12570 of 2023.

3. The learned counsel for the petitioners submits that in view of the validity certificates issued to Mohan Vitthal and Pentaji Vitthal, it was not permissible for the Scrutiny Committee to deny the validity certificates to the petitioners. The validity holders were issued with the validity certificates after following due procedure of law considering the self same record followed by speaking orders. The learned counsel would submit that there is clinching old record of 1945 as well as of 1961 to support their claims.

4. Per contra, the learned Assistant Government Pleader opposes the tribe claims of the petitioners. He would submit that there is contrary record of Shankar, Mahajan, Laxman, Sambha and Mohanaji, which is incompatible with the claims of the petitioners. According to him, the Committee has rightly

appreciated the material on record. The Committee is justified in discarding the validity certificates.

5. The learned A. G. P. has placed on record the original papers. It is informed that the Committee has proposed to reopen the matters of the validity holders.

6. We have considered the submissions of the learned counsel for both the sides.

7. The relationship of the validity holders Mohan and Pentaji with the petitioners is not disputed. The genealogy at page No. 68 indicates that the validity holders are paternal side relatives of the petitioners. Our attention is drawn to the report of the vigilance enquiry conducted in the matter of one of the validity holders Pentu @ Pentaji. The list of the documents verified by the vigilance officer is at page No. 134. A speaking order in his matter is placed on record at Exhibit M. We find that after following due procedure of law the validity certificate was issued to Pentaji. In view of the judgment of the Supreme Court in the matter of **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others** reported in **2023 SCC Online SC 326**, the petitioners are entitled to validity certificates.

8. The old record which is at Exhibit – N onwards is shown to us. The school record of Vitthal, Sambhaji and Mahajan consistently indicate caste as Mannervarlu. The old record has a

probative value and it should enure to the benefit of the petitioners. It is perversity to discard the old record while rejecting the caste claims of the petitioners.

9. The learned A. G. P. has pointed out contrary entries from the original papers. We have gone through the photocopies from the original file. We find that the contrary entries are not decisive at this stage because the validity certificates of Pentaji and Shankar are still intact. The Committee has undertaken reverification. Unless their validity certificates are recalled, the petitioners cannot be deprived of validity certificates. We find that the Scrutiny Committee has committed patent illegality in rejecting the tribe claims of the petitioners. The impugned judgment and order is unsustainable.

10. We propose to pass following order.

ORDER

- (i) The writ petitions are partly allowed.
- (ii) The impugned order dated 15.09.2023 passed by the respondent/Scrutiny Committee is quashed and set aside.
- (iii) The Committee shall immediately issue tribe validity certificates to the petitioners as belonging to 'Mannervarlu' scheduled tribe in the prescribed format without adding anything.

(iv) The validity certificates shall be subject to the final outcome of the matters intended to be reopened by the Scrutiny Committee.

(v) The petitioners shall not be entitled to claim equities.

(vi) The writ petitions are disposed of.

[SHAILESH P. BRAHME, J.] [MANGESH S. PATIL, J.]

bsb/Oct. 23