

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

Writ Petition No. 12639 of 2023

Aditya Shankarrao Thakkarwad

Age : 19 years, Occu.: Student,

R/o A/p Kasrali, Tq. Biloli, Dist. Nanded.

...Petitioner

Versus

1. The State of Maharashtra,
Through Secretary, Tribal Development Department,
Mantralaya, Mumbai.
2. The Scheduled Tribe Certificate
Scrutiny Committee, Kinwat Division,
Dist. Aurangabad
through its Chairman.
3. Sub-Divisional Officer,
Biloli.

...Respondents

AND

Writ Petition No. 12640 of 2023

Atharva Sanjay Thakkarwad

Age : 18 years, Occu.: Student,

R/o A/p Kasrali, Tq. Biloli, Dist. Nanded.

...Petitioner

Versus

1. The State of Maharashtra,
Through Secretary, Tribal Development Department,
Mantralaya, Mumbai.
2. The Scheduled Tribe Certificate
Scrutiny Committee, Kinwat Division,
Dist. Aurangabad
through its Chairman.
3. Sub-Divisional Officer,
Biloli.

...Respondents

Writ Petition No. 12641 of 2023

Gaurav Shankarrao Thakkarwad

Age : 23 years, Occu.: Student,

R/o A/p Kasrali, Tq. Biloli, Dist. Nanded.

...Petitioner

Versus

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

2. The Scheduled Tribe Certificate
Scrutiny Committee, Kinwat Division,
Dist. Aurangabad
through its Chairman.

3. Deputy Collector (Land Acquisition),
Nanded.

...Respondents

Mr. Madhur A. Golegaonkar, Advocate for the Petitioner.

Mr. S.G. Sangale, Addl.GP for Respondents/State.

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

DATE : 16 OCTOBER 2023.

FINAL ORDER [SHAILESH P. BRAHME, J.] :

. Heard both the sides finally.

2. The present petitions are arising out of common judgment and order dated 27.09.2023 passed by the Scrutiny Committee, invalidating the tribe certificates of the petitioners and confiscating them. The petitioners are closely related *inter se* and they claim to be belonging to Mannervarlu scheduled tribe. There is a common record for the scrutiny and these petitions can be decided by common order. For the sake of brevity, we propose to rely on the papers of Writ Petition No.12639/2023.

3. The petitioners are relying upon the validity certificates issued in favour of their fathers namely Shankarrao, Sanjay and Rutwik. Rutwik happens to be real brother of one of the petitioners and he was issued with validity certificate by the order of the High Court. There are other validity certificates also in the family issued to Pradeep and Jyoti.

4. The learned Counsel for the petitioners submits that when after considering the selfsame record, the members of the family are issued with validity certificates, the Scrutiny Committee has committed an error of jurisdiction in rejecting the caste claim. He would rely on the validity certificates issued after following due procedure of law. He would submit that the impugned judgment and order is arbitrary and discriminatory.

5. Per contra, learned AGP opposes the claim of the petitioners. According to him, the Scrutiny Committee has rightly dealt with the contrary entries and the manipulation in the school record of relatives of the petitioners. He would submit that the Committee has not committed any perversity or patent illegality. The view taken by the Committee is plausible which needs no interference. He further submits that the validity certificates are not reliable. The Committee has proposed to reopen the matters of the validity holders.

6. We have considered the rival submissions of the parties. Before referring to the merits of the matter, it would be appropriate to refer the genealogy which is at page no.56. Validity holder Shankar is the father of petitioner – Gaurav and Aditya. Whereas another validity holder Sanjay is the father of Atharva. Other validity holders namely

Pradeep and Jyoti are also paternal side close relatives. The relationship amongs the persons appearing in the genealogy are not disputed.

7. The learned Counsel for the petitioners has drawn our attention to the vigilance enquiry conducted in the matter of Shankar Gangaram Thakkarwad. A report is placed on record at Exhibit-I. The school record of the relatives was verified by the vigilance cell. Shankar was issued with validity certificate. Thereafter Sanjay was also issued with validity certificate.

8. Learned AGP is unable to point out any procedural flaws while issuing validity certificate to these family members. Just because the Committee has proposed to conduct re-verification of their validity certificates cannot be ground to deny the validity certificates to the petitioners. In view of law laid down by the Supreme Court in the matter of **Maharashtra Adavasi Thakur Jamat Swarakshak Samiti vs. State of Maharashtra & others** reported in 2023(2) Mh.L.J.785, we hold that the Committee has committed perversity in discarding the validity certificates.

9. The learned Counsel for the petitioners has also relied upon the validity certificates of Rutwik Sanjay Thakkarwad. A reference is made to the judgment and order dated 14.08.2018 passed by the High Court in the matter of Rutwik in Writ Petition No.9561/2018 which is at Exhibit-F. The selfsame record was considered and the petition was allowed with direction to issue validity certificate subject to the result of re-verification. We propose to adopt the same course.

10. We find that the impugned judgment and order of the Committee is unsustainable. We, therefore, dispose of these petitions by passing following order.

ORDER

(i) The writ petitions are partly allowed. The impugned common order dated 27.09.2023 is quashed and set aside. The respondent-committee shall immediately issue tribe validity certificates to the petitioners as belonging to 'Mannervarlu' scheduled tribe in the prescribed format without adding anything. The validities shall be subject to the final outcome of the matters which the committee has decided to re-open.

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

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]