

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

67 WRIT PETITION NO.13225 OF 2023

VARSHA SHRIRAM SUDEWAD
VERSUS
THE STATE OF MAHARASHTRA
THROUGH ITS PRINCIPAL SECRETARY AND OTHERS
AND
72 WRIT PETITION NO.13230 OF 2023

SWATI DATTATRAY SUDEWAD
VERSUS
THE STATE OF MAHARASHTRA
THROUGH ITS SECRETARY AND ANOTHER

...

Mr. Chandrakant R. Thorat, Advocate for the Petitioners.
Mr. P. K. Lakhotiya, AGP for the Respondents-State
Mr. S. B. Pulkundwar, Advocate for Respondent Nos. 2 and 3 in Writ
Petition No. 13225/2023

CORAM : RAVINDRA V. GHUGE &
Y. G. KHOBRAGADE, JJ.
DATE : 25th October, 2023

ORDER:

1. Both these Petitioners are blood relatives from the paternal side. Both have suffered invalidation of their claim of belonging to " Mannervarlu" Schedule Tribe category vide a common judgment dated 05.10.2023.

2. We have considered the submissions of the learned Advocate for the Petitioners and the learned AGP. With their assistance, we have perused the Petition paper book.

3. The Petitioner- Varsha in Writ Petition No. 13225 of 2023, is the daughter of Shriram and grand daughter of Mahadu. Mahadu, father of Shriram has a validity certificate. The Petitioner's biological brother Amol and biological sister Vidhyatai, both have been granted validity certificates. In all there are 24 validity holders in the family, out of whom, 3 have been granted validity certificates by the High Court.

4. In Writ Petition No. 13230 of 2023, Petitioner Swati is daughter Datta Ramji Sudewad and grand daughter of Ramji Sudewad. Datta has been granted a validity certificate.

5. The learned AGP strenuously submits that there is a serious doubt whether the Petitioners belong to Mannervarlu Scheduled Tribe. There are multiple adverse entries indicating Mannervar. However, there are interpolations in the old records indicating addition of an alphabet "lu" (Marathi "लु") thereby making Mannervar appear as Mannervarlu. Show cause notices have been issued to many validity holders for reopening of their cases in the light of the interpolation.

6. This Court has delivered a judgment in ***Shweta Balaji Isankar vs. The State of Maharashtra and others***, Writ Petition No.5611/2018, on 27.07.2018, at the Principal Seat. In the case of **Suraj Balaji Isankar**, this Court at Aurangabad Bench, had delivered an order on 26th September, 2022 in Writ Petition NO. 7895 of 2022.

7. We find 24 validates in the family, out of which three are granted by the High Court. The Law laid down in **Apoorva d/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No.1 Nagpur, [2010(6) Mh.L.J.401** would be applicable to this case. Moreover, in paragraph Nos. 3 and 4 in ***Shweta Balaji Isankar (Supra)***, this Court has held as under:

“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. In view of the above, **these Petitions are partly allowed.** The impugned order is set aside.

9. We direct the Committee to issue appropriate validity certificates to these two Petitioners within 30 days from today. Nevertheless, applying the law laid down in ***Shweta Balaji Isankar (Supra)***, if any of the validity holders, on whom the Petitioners have relied upon, suffer invalidation after reopening of their cases, the consequences that would follow such invalidation, would also befall

upon these two Petitioners and they would also be liable to suffer the same consequence.

(Y. G. KHOBRAGADE, J.)

(RAVINDRA V. GHUGE, J.)

JPChavan