

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 13142 OF 2023

Chaitrali D/o Gangadhar Kasrale

.. Petitioner

Versus

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

2] The Scheduled Tribe Caste Certificate
Verification Committee Kinwat at Aurangabad
Through its Dy. Director (R),
Aurangabad

.. Respondents

...
Advocate for petitioner : Mr. S.M. Vibhute
AGP for the respondent – State : Mr. K.N. Lokhande
...

**CORAM : MANGESH S. PATIL &
NEERAJ P. DHOTE, JJ.**

DATE : 29 NOVEMBER 2023

ORDER (MANGESH S. PATIL, J.) :

The petitioner is invoking the powers of this Court under Article 226 of the Constitution to question the legality and sustainability of the order passed by the respondent no. 2 – scrutiny committee constituted under the provisions of the Maharashtra Act No. XXIII of 2001, thereby confiscating and cancelling her Mannervarlu scheduled tribe certificate.

2. The learned advocate Mr. Vibhute for the petitioner would take us through the record to demonstrate that in-fact there is no dispute about the genealogy. One Bhujanga Rama Kasrale, who was the petitioner's grandfather, was the common ancestor. He was survived by two sons Motiram Bhujanga and Gangadhar Bhujanga. Gangadhar is her father. Motiram has four issues – Rajendra, Jitendra, Sima and Vaishnavi. Her father Gangadhar possess a certificate of validity and so do Rajendra, Jitendra and Sima. He would submit that Vaishnavi's claim was also invalidated by the committee. She had challenged it in writ petition no. 8522 of 2022. By the order dated 10-08-2023 this Court directed her to be issued with a certificate of validity subject to the condition that its validity would depend upon the matters which the committee had intended to re-open. He would submit that in view of such validities in the family, independent of anything, the petitioner is entitled to have a similar certificate of validity. She is ready to suffer the consequences as contemplated in the matter of ***Shweta Balaji Isankar Vs. State of Maharashtra and others (writ petition no. 6320 of 2017)***.

3. Mr. Vibhute would then submit that since the petitioner was in urgent need of certificate of validity and she was ready to adopt vigilance report in the matter of Vaishnavi, the committee had allowed her to do so and, accordingly, the enquiry was conducted and by the

impugned order, the committee has rejected her claim. If on the basis of the same set of evidence, this Court had directed certificate of validity to be issued to Vaishnavi, even the petitioner is entitled to have it.

4. Mr. Vibhute would submit that the observations and the conclusions of the committee in scanning the evidence are clearly perverse and arbitrary. Inferences have been drawn on surmises and conjectures, no sound and cogent reasons have been assigned by the committee not to extend the benefit of the number of validities in the family and the petition be allowed.

5. Per contra, the learned AGP would strongly oppose the petition. He would submit that indeed there is no dispute about the genealogy and the fact that the petitioner's father Gangadhar and her four paternal cousins possess certificates of validity. However, he would submit that Sima Motiram and Rajendra Motiram were the first persons who had obtained certificates of validity based on that the other individuals were found entitled to have similar certificates of validity. However, it was transpired to the committee during the course of the enquiry that Sima Motiram and Rajendra Motiram had obtained certificates of validities by practising fraud. While submitting proposal in form 'F', they had expressly declared that there was no invalidity in the family, when in-fact, their earlier proposals for validation of the

certificates issued to them on 11-06-1990 were invalidated by the then committee on 13-06-2000. Still, they were able to procure fresh tribe certificates and could get those validated subsequently, based on which the other family members were issued with certificates of validities.

6. He would submit that this is a matter of clear fraud practised by the family members in getting the tribe certificates validated and precisely for this reason, the committee has observed that the petitioner was not entitled to derive the benefit of the validities in the family and had inherent powers as observed in the matters of ***Jyoti Sheshrao Mupde v State of Maharashtra (Writ Petition No. 1954/2009 decided on 22/08/2012)*** and ***Rajeshwar Baburao Bone Vs. State of Maharashtra and others (Writ Petition No. 5190 of 2012 decided on 17/12/2013); 2013 SCC OnLine Bom. 1999***, to re-examine the validities granted to the family members.

7. Independently, the learned AGP would submit that the committee has minutely gone through several manipulations in the school record of the family members including that of petitioner's father. Even the Headmaster of the school had refused to vouch for the authenticity of the school record because of the very manipulation. The committee found several such entries, besides could notice contrary entries as well and has rightly refused to give any weightage to those

entries. All the favourable entries were of recent time and would carry little importance as compared to the old record. He would, therefore, submit that when the fraud practised by Rajendra Motiram and Sima Motiram was not revealed to the committee which decided the matters of earlier validity holders and even was not available to be looked into by this Court when Vaishnavi Motiram was directed to be issued with certificate of validity, no fault can be found with the decision of the scrutiny committee and it cannot be interfered with in exercise of the powers under Article 226.

8. Having considered the rival submissions and having perused the original record including the orders passed in favour of the validity holders, it is ex facie clear that the invalidity faced by Rajendra Motiram and Sima Motiram way back in the year 2000 has been traced only recently. For that matter even when the claim of Vaishnavi Motiram was being considered by the committee, the committee was clearly oblivious of such earlier invalidities. There is no reference in the order passed in the matter of Vaishnavi about it and obviously, in the order of this Court in the writ petition preferred by her to which one of us (Mangesh S. Patil, J.) was a party.

9. Admittedly, Rajendra and Sima were the first validity holders and based on their validities, the tribe certificates of other family members were validated at later point of time. We are

emboldened to observe that though these circumstances do not form part of the vigilance enquiry and obviously could not have been met by the petitioner, when these circumstances are the reasons exclusively finding place in the impugned order, if at all the petitioner had any grievance about any prejudice having been caused to her since those were being raked up at eleventh hour, there ought to have been specific pleadings to that effect. The memo of the petition is conspicuously silent and does not even make any attempt to either demonstrate any prejudice having been caused or factually disputing the observations about Rajendra and Sima having faced invalidation but could manage to obtain fresh tribe certificates and could get those validated and which formed the basis for the subsequent validities in the family.

10. Besides, in our considered view, the mere fact that these two individuals had earlier faced invalidation and were able to procure fresh certificates and could get those validated that too expressly declaring that there was no invalidation in the family, that by itself is sufficient for anybody to reach a conclusion that this is a case of clear fraud. Since the two individuals Rajendra Motiram and Sima Motiram are not before us, we do not deem it appropriate to make any further comment in this regard. We are merely pointing out as to how these two individuals had obtained certificates of validities and none of the

family members who were subsequently granted certificates of validity and even the petitioner is entitled to derive any benefit from the validities possessed by these two individuals.

11. Mr. Vibhute makes a faint attempt to explain the circumstances in which Rajendra Motiram and Sima Motiram were required to obtain fresh certificates in spite of earlier certificates having been invalidated. However, this attempt is nothing but an afterthought and it was not the petitioner's stand before the committee nor is there any foundation in the pleadings to substantiate this. The submission is, therefore, liable to be discarded at the threshold.

12. Once having concluded that the petitioner is not entitled to derive benefit of validities in the family, the only thing that remains to be considered is as to whether the evidence before the committee was sufficient enough, independently, to substantiate her claim.

13. As can be seen, all the favourable record produced by the petitioner was of recent origin of last 2-3 decades. The earliest contrary record was of Govind Tulshiram Kasrale whose school record of 1964 described him as Manurvar. Rest of the favourable entries being relied upon by the petitioner in respect of the school record of her father Gangadhar and uncle Motiram was found to be manipulated and the word 'lu' ("लु") was added to the entry 'Manervar' in a different ink

and handwriting. Even the Headmaster of the school could not vouch for the correctness of the entries. If such was the state of evidence before the committee, the decision of the committee to refuse to rely upon such dubious school record cannot be said to be perverse or arbitrary much less by exercising the powers under Article 226 of the Constitution. The decision is clearly based on correct and plausible appreciation of the evidence and cannot be interfered with.

14. As mentioned hereinabove, since the fact that Rajendra and Sima had obtained the certificates of validity by practising fraud, was not before this Court which decided the petition of Vaishnavi Motiram, even the petitioner is not entitled to derive any benefit of the order passed in her matter. Precisely for this reason, the petitioner is not entitled to derive any benefit even of the decision in the matter of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others; 2023 SCC Online SC 326.***

15. Faced with the situation, as a last ditch effort, Mr. Vibhute submits that now that show cause notices have been directed to be issued to the validity holders calling upon them to explain as to why their certificates of validities may not be recalled, the present petition may be adjourned, as the petitioner is ready to wait for those matters to reach finality.

16. Since we have already noticed that there was not enough evidence before the committee to substantiate the petitioner's claim and have simultaneously also noticed that the original validity holders in the family had obtained certificates of validity by practising fraud and the petitioner is not entitled to derive its benefit, once having heard both the sides finally and having pronounced the order in the open Court, the request of Mr. Vibhute cannot be considered.

17. The writ petition is dismissed.

[NEERAJ P. DHOTE]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/