

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

4 WRIT PETITION NO.13202 OF 2023

Shubham s/o Yalappa Endrod,
Age : 25 years, Occu. Student,
R/o. At Bothi, Tq. Umri, Dist. Nanded.

....Petitioner

Versus

The State of Maharashtra & Anr.

...
Advocate for Petitioner : Mr. Mohanish V. Thorat
AGP for Respondents: Mr. S. R. Yadav - Lonikar
...

WITH

21 WRIT PETITION NO.13295 OF 2023

Sairaj s/o Bhojram Indrod,
Age : 19 years, Occu. Student,
R/o. At Post Bothi, Tq. Umri,
Dist. Nanded.

...Petitioner

Versus

The State of Maharashtra & Anr.

...
Advocate for Petitioner : Mr. Chandrakant R. Thorat
AGP for Respondents: Mr. S. R. Yadav - Lonikar
...

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

DATED : 23rd OCTOBER 2023

PER COURT : -

. Heard.

2. The petitioners, who are the cousins, are challenging the common order passed by the Scrutiny Committee confiscating and cancelling their 'Mannervarlu' Scheduled Tribe certificates by resorting to Section 7(2) of Maharashtra Act No. XXIII of 2001.

3. Considering the urgency, we have heard both the sides finally at the stage of admission.

4. The learned advocates for the petitioners submit that the petitioner Shubham's father Yellappa is a validity holder. He was granted certificate of validity by following due process of law. Even Vigilance Inquiry was conducted at that time and his claim was validated.

5. The learned advocates submit that the petitioners are entitled to derive the benefit of Yellappa's validity. There is no dispute about the genealogy. They are ready to face the consequences as observed in the matter of **Shweta Balaji Isankar Vs. State of Maharashtra and others** [Writ Petition No. 6263 of 2017, decided by Bombay High Court on 20.06.2017, and submit that certificate of validity be issued to them subject to the final outcome of the Yellappa's matter which the committee has decided to reopen.

6. Learned AGP strenuously points out several contrary entries and manipulations resorted to by the petitioners and their relations. Though the vigilance inquiry was conducted while considering the claim of Yellappa, several such manipulations could not be traced which could be traced in the current vigilance inquiry. The committee has elaborately dealt with and observed as to how there are several circumstances which indicate that Yellappa had obtained certificate of validity by misrepresentation and by concealment of the contrary and by resorting to manipulated record. The Committee has the power and jurisdiction to undertake a fresh scrutiny which it has decided to do. The petitioners cannot be allowed to derive the benefits of the fraud practice by Yellappa.

7. We have considered the rival submissions and perused the papers.

8. Apparently, Yellappa was granted validity certificate by following due process of law. Rather it is not the observation of the committee that there was any procedural lapse. A vigilance was conducted and for the reasons discussed in the order in his matter, he was held to be entitled to have a certificate of validity.

9. If the committee on a fresh scrutiny draws an inference about Yellappa having practised fraud and has decided to reopen his

inquiry, the inference will have to be substantiated by extending an opportunity to him of being heard. That would take its own course. The circumstances, which according to the Committee constituted fraud, cannot be discussed here behind his back. We cannot make some observations when he is not before us. If the circumstances referred to by the Committee in the impugned order make out a case of fraud, it would always be open for the Committee to undertake that scrutiny and take the inquiry to its logical end.

10. The fact remains that Yellappa was granted certificate of validity by following due process of law as is contemplated and expected by the Hon'ble Supreme Court in the case of **Mah. Adiwasi Thakur Jamat Swarakshan Samiti v. The State of Maharashtra & Ors.** [Civil Appeal No. 2502 of 2022, decided on 24th March, 2023]. If that be so, till the time Yellappa's validity certificate is not confiscated and cancelled by the Committee by following due process of law, the petitioners cannot be denied the benefit of having a validity *albeit* subject to the final outcome of Yellappa's matter.

ORDER

- [i] The Writ Petitions are partly allowed.
- [ii] The common impugned Judgment and Order dated 27.09.2023 passed by the Scrutiny Committee, is quashed and set aside.

- [iii] The Committee shall immediately issue a certificate of tribe validity to the petitioners of 'Mannervarlu' Scheduled Tribe.
- [iv] The Law Officer of the Scrutiny Committee is present in the Court and has been assisting the learned AGP. Both of them shall communicate this decision to the Committee.
- [v] The petitioners shall not claim any equity.
- [vi] The certificate of validity would be subject to the final outcome of the matters and the validity of Yellappa which the Committee intends to reopen.

[NEERAJ P. DHOTE]
JUDGE

[MANGESH S. PATIL]
JUDGE