

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

914 WRIT PETITION NO.3157 OF 2023

Ankita d/o Sarangdhar Kambale
Age 20 years, Occ. Education
R/o. Golegaon, Tq Georai,
District Beed.

...Petitioner

versus

1. The State of Maharashtra
Through its Secretary
Medical Education and Drugs
Department, Mantralaya
Mumbai

2. The Scheduled Tribe Caste
Certificate Verification Committee
Kinwat,
Through its Dy. Director @,
At Aurangabad

...Respondents

...
Advocate for Petitioner : Mr. Sunil M. Vibhute
AGP for Respondents: Mr. S.G. Karlekar

.....

**CORAM : RAVINDRA V. GHUGE AND
SANJAY A. DESHMUKH, JJ.**

DATED : 21st APRIL, 2023.

ORAL JUDGMENT (PER RAVINDRA V. GHUGE, J.):

1. Rule. Rule made returnable forthwith and heard finally
by the consent of the parties.

2. Pursuant to our order dated 21.03.2023, the Petitioner has
placed on record a genealogy along with a short affidavit, dated
30.03.2023.

3. The Petitioner claims to be belonging to Koli Mahadev S.T. The claim of the Petitioner has been invalidated by the committee by the impugned order dated 10.10.2022.

4. We have considered the extensive submissions of the learned advocates for the respective sides, especially the strong objections raised by the learned A.G.P.

5. The Petitioner's father Sarangdhar has been granted a validity certificate by the Committee. He has one biological sister Usha and two biological brothers viz. Digambar and Ramkawar. The family tree indicates that father of these four persons viz. Murdlihar, is the son of Haribhau. Haribhau had four biological brothers viz. Rambhau, Kisan, Vitthal and Babasaheb. Two sons of Rambhau viz. Shivaji and Madhukar, are validity holders. Considering the objection of the learned A.G.P. that there are contra entries, serious interpolation and contradictions, the learned advocate for the Petitioner submits that he would not rely upon the validity certificates of Shivaji and Madhukar. The learned A.G.P. clarifies that the validity certificates of both Madhukar and Shivaji were not cited, much less referred to by the Petitioner when her claim was being adjudicated upon.

6. The law laid down in ***Apoorva d/o Vinay Nichale Vs.***

Divisional Caste Certificate Scrutiny Committee, 2010 (6) Mh.L.J. 401 and in view of the recent judgment delivered by the Hon'ble Supreme Court on 24.03.2023 in ***Maharashtra Adiwashi Thakur Jamat Swarakshan Samiti vs. The State of Maharashtra, (Civil Appeal No. 2502 of 2022)***, the onus and burden was on the Petitioner to establish her relations with Sarangdhar and Digambar. She has established that Sarangdhar is her biological father and Digambar is the biological brother of Sarangdhar.

7. The learned A.G.P. submits that considering the interpolation and contra entries, the possibility of reopening of cases of Sarangdhar and Digambar, by the Committee, cannot be ruled out. This contention need not detain the claim of the Petitioner for the reason that this Court (Coram : S. C. Dharmadhikari and Smt. Bharati H. Dangre, JJ.), at the Principal Seat, in ***WP No.5611/2018 (Shweta Balaji Isankar Vs. State of Maharashtra and Others)***, have held in paragraphs 2 to 4 and 8, as under:-

"2 On the earlier occasion, we found that though the petitioner produced credible evidence in the form of certificates of validity issued to her real uncle Govind Sambhaji Isankar and which concededly has been issued way back on 5th December 2005 and another certificate of validity dated 5th September 2006 to his cousin uncle Ramdas Sambhaji Isankar, the Committee finds that the certificate of validity issued to the real uncle Govind, is not free from suspicion. It is held by the Committee in the impugned order that a notice to show cause has been issued to said Govind on 14th September 2017, calling upon him to show cause as to why this certificate of should not be

cancelled as its issuance is vitiated by fraud or suppression of material facts by the said Govind.

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. *This order does not prevent the Committee from proceeding against Govind in accordance with law and needless to further clarify that in the event Govind's claim is invalidated, all the consequences shall be taken by the*

petitioner as well."

8. Since the Petitioner has established her blood relations with Sarangdhar and Digambar, the basic requirements as prescribed in the ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti (supra)***, are satisfied. The possibility of reopening of the cases of Sarangdhar and Digambar prompt us to record that if such cases are reopened and if any of them suffers invalidation, all these candidates, including the present petitioner, who relied on such validities, would suffer the same consequences.

9. With the above observations, **this petition is partly allowed**. The impugned order dated 10.10.2022, is quashed and set aside. The committee shall issue a 'Koli Mahadev S.T.' validity certificate to the Petitioner, within 30 days.

10. Rule is made partly absolute in the above terms.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE , J.)

rlj/