

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

WRIT PETITION NO. 13967 OF 2023

1. Prasad Prakash Sarkalwad
Age: 23 years, Occu: Student
R/o: A/p Bahaddarpura,
Tq. Kandhar & Dist. Nanded
 2. Shraddha Prakash Sarkalwad
Age: 26 years, Occu: Student,
R/o: A/p Bahaddarpura,
Tq. Kandhar & Dist. Nanded
- ... Petitioners

Versus

1. The State of Maharashtra
Through its Secretary
Tribal Development Department
Mantralaya, Mumbai – 32
 2. The Scheduled Tribe Certificate
Scrutiny Committee
Kinwat Division, Aurangabad
Through its Member Secretary
 3. Sub-Divisional Officer,
Kandhar, Nanded
- ... Respondents

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Mr. A. S. Golegaonkar h/f Mr. M. A. Golegaonkar, Advocate for the
Petitioners

Mr. S. G. Sangale, AGP for the Respondents/State

...

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

DATE : 06.11.2023

ORDER : [PER NEERAJ P. DHOTE, J.]

. Heard both the sides. Rule. Rule is made returnable forthwith. Learned AGP waives notice on behalf of the respondents - State. At the joint request of the parties, heard the matter finally at the admission stage.

2. The petitioners, who are siblings, have approached this court by way of this Writ Petition under Article 226 of the Constitution of India challenging the decision of the respondent no.2 - Scrutiny Committee invaliding their claim towards 'Mannervarlu' Scheduled Tribe by the common order dated 18.10.2023 on the grounds that there are contrary entries in the records of the family members of the petitioners, the petitioners could not establish the affinity towards the said community and area restrictions.

3. It is submitted by the learned advocate for the petitioners that the most vital aspect in the matter is that the petitioners' father,

real sister, real cousins and real uncles are issued the validity certificates by the Scrutiny Committee by following due process of law and the respondent no.2 - Committee has ignored the said vital documents. He further submitted that though the Scrutiny Committee has decided to reopen the cases of validity certificates issued to relatives of the petitioners, till the time the validity certificates of the father and other blood relatives are cancelled and confiscated, the petitioners cannot be deprived of the validity towards the said tribe claim and submitted that the impugned order be quashed and set aside.

4. The learned AGP submits that during the vigilance the record of the family members of the petitioners was verified and the respondent no. 2 - Scrutiny Committee invalidated the claim because alterations in the caste was suppressed while other validity certificates to the blood relatives of the petitioners were granted. He further submitted that the Caste Scrutiny Committee has rightly rejected the petitioners tribe claim.

5. After hearing both the sides and going through the

record, one thing becomes clear that there is no dispute in respect of the genealogy and petitioners' father, sister, uncles and other near blood relatives are issued the tribe validity certificates towards 'Mannervarlu' tribe after following due process of law. Even accepting the impugned order wherein it is stated that there are contra entries in the documents of the relatives of the petitioners in respect of the caste, position under the law is that, till the tribe certificates of the father and other relatives of the petitioners are intact, the petitioners cannot be deprived of the validity certificates towards the said tribe claim.

6. As regards the aspect of affinity test and area restriction is concerned, the same cannot form the basis to reject the tribe claim when the blood relatives or the near relatives of the petitioners are having validity certificates. Thus, considering the principles laid down by the Hon'ble Apex Court in the matters of (i) **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti vs. State of Maharashtra and Ors.**, 2023 SCC Online SC 326, (ii) **Palghat Jilla Thandan Samudhaya Samrakshna Samithi and Anr vs State of Kerala and Anr**, (1994) 1 SCC 359, and (iii) **Jaywant Dilip Pawar vs State of**

Maharashtra and Ors., 2018 (5) All MR 975, the impugned order of the respondent no.2 - Committee is required to be quashed and set aside with directions to the respondent no.2 - Committee to issue conditional validity certificates to the petitioners. Hence, we proceed to pass the following order.

ORDER

- (i) The Writ Petition is partly allowed. The impugned order is quashed and set aside. The respondent – committee shall immediately issue tribe validity certificate to the petitioners as belonging to ‘Mannervarlu’ scheduled tribe in the prescribed format without adding anything. The validity shall be subject to the final outcome of the matters which the committee has decided to re-open.
- (ii) Learned AGP to communicate this order immediately to the concerned Committee.
- (iii) The petitioners shall not be entitled to claim equities.

7. Rule is made absolute in above terms.

[NEERAJ P. DHOTE, J.]

[MANGESH S. PATIL, J.]