

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

WRIT PETITION NO.13966 OF 2023

- | | | | |
|----|--------------------------|-----|--------------------|
| 1. | Girish Trimbak Yedpalwar | | |
| 2. | Dinesh Trimbak Yedpalwar | ... | 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
Dharmabad, Nanded | ... | Respondents |

...

Advocate for Petitioners : Mr. Golegaonkar Madhur A.

AGP for Respondents: Mr. S.G. Sangale

...

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

DATE : 06.11.2023

PER COURT :

Heard the learned advocate for the petitioners and the learned AGP for respondent Nos.1 and 2 finally. The learned AGP also waives service for respondent No.3.

2. Rule. Rule is made returnable forthwith. At the joint request of the parties, the matter is being heard and decided at the admission stage.

3. The petitioners are challenging the common order of the Scrutiny Committee invalidating their claims of belonging to “Mannervarlu” scheduled tribe. The learned advocate for the petitioner adverts our attention to the genealogy to point out that the petitioners’ third degree paternal uncles Kabirdas Saibu and Raghvendra Saibu possess certificates of validity. Similarly one Sarojana Gangadhar and Yogesh Gangadhar who are second degree cousins of their father also possess certificates of validity. The Committee has merely considered the validity of Kabirdas and has not commented upon the validities of other validity holders.

4. The learned advocate points out that except four contrary entries there was nothing before the Committee to discard the petitioners’ claim. Those contrary record of individuals Govindu Gangaram and Hushenna Gangaram and Gangadhar Gangaji Yedpalwar has been relied upon to discard the petitioners claim. They had specifically denied any relationship with them and still there is no observation of the Committee to refute the petitioners stand.

5. He would submit that since these were the only contrary entries, the rest of the entries being favourable to the petitioners’ claim, the committee ought to have validated their tribe certificates.

6. Even if the Committee now has decided to undertake a fresh scrutiny of the matters of validity holder Kabirdas, till the time it is not confiscated and cancelled, the petitioners cannot be denied the benefit.

7. Per contra, the learned AGP submits that though the petitioners have denied any relationship with Hushenna Gangaram, in a genealogy prepared during the vigilance inquiry under the signature of the petitioners' father Trimbak *ex facie* show him to be the real brother of petitioners' grandfather Govindu Gangaram. He would submit that after considering the contrary entries and forming an opinion that concealing those Kabirdas had obtained certificate of validity, it has rightly decided to undertake a fresh scrutiny.

8. We have carefully considered the rival submissions and perused the papers including the original file.

9. Except the individuals whose contrary school record has been collected during vigilance, the Committee has not doubted the genealogy. Admittedly, there are four validity holders, it is not the stand of the Committee about they having obtained certificates of validity without following due process and consequently in the light of the decision in the matter of **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and Ors.; 2023 SCC Online SC 326**, the petitioners being the blood relatives cannot be denied to have its benefit.

10. Independently, committee has been entertaining a doubt about the petitioners claim as it perceives that they as also the validity holders had deliberately concealed the school record of the three individuals discussed by the Committee in the impugned order, wherein, the record in the caste column showed them to be 'Munur' and

‘Munrwar’. Obviously this is old record, and certainly contrary to the petitioners’ claim of being “Mannervarlu”.

11. However, the conspicuous absence of any reasoning in the impugned order in spite of a specific denial by the petitioners about these individuals being the family members or blood relatives clearly demonstrate that the decision of the Committee to rely upon this contrary record is clearly perverse and arbitrary.

12. Without there being any reason assigned by the Committee in the impugned order the learned AGP makes an attempt to refer to the genealogy prepared by the vigilance officer purportedly under the signature of petitioners’ father, wherein, at least one of these three individuals namely Hushenna Gangaram Yedpalwar has been shown as the full brother of petitioners’ grandfather.

13. *Ex facie*, this genealogy appears to be under the signature of petitioners’ father Trimbak. It also bears the signature and stamp of the inquiry officer. However, a bare look at this genealogy shows that the name Khushanna has been added in a different handwriting and ink. Apart from the fact that the Committee has not considered the stand of the petitioners denying any relationship with these individuals, even it has failed to consider this aspect. Merely because the learned AGP now points out this circumstance, we are afraid this Court cannot undertake any fresh scrutiny in the absence of any observation of the Committee.

14. In the normal course when in the inquiry under the

Maharashtra Act No.XXIII of 2001, vigilance inquiry is conducted under Rule 12 in respect of the tribes under Rules of 2003, a copy of the report is served to the claimants, their response is solicited and it is then, after conducting necessary hearing, the Committee is supposed to decide the claims. If the petitioners have been denying any relation with these three individuals, it was imperative for the Committee to have objectively demonstrated as to how the petitioners' stand was not tenable. Nothing of the sort having taken place, we cannot permit the learned AGP to make any submissions relying upon the genealogy prepared by the vigilance officer.

15. 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.

16. Learned AGP to communicate this order immediately to the concerned Committee.

17. The petitioners shall not be entitled to claim equities.

(NEERAJ P. DHOTE, J.)

(MANGESH S. PATIL, J.)