



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 14649 OF 2023

1] Dinesh S/o Kishor Bakkawad,
Age : 27 years, Occu. : Student,
R/o. Rahati Bk., Tq. Bhokar,
Dist. Nanded .. Petitioner

Versus

1] The State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai – 32.

2] Deputy Director (Research)
and Member Secretary,
Scheduled Tribe Certificate
Verification Committee, Kinwat,
Headquarter Chhatrapati Sambhajnagar,
Near CIDCO Bus Stand,
Chhatrapati Sambhajnagar .. Respondents

...
Advocate for petitioner : Mr. Chandrakant R. Thorat
AGP for the respondent – State : Mr. V.M. Jaware
...

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

DATE : 07 DECEMBER 2023

ORDER (MANGESH S. PATIL, J.) :

Rule. Rule is made returnable forthwith. With the consent
of the learned counsel for the parties, the petition is heard finally.

2. The petitioner is challenging the order of invalidation whereby his Mannervarlu scheduled tribe certificate has been confiscated and cancelled.

3. Learned advocate for the petitioner would submit that there is no dispute about the genealogy. His cousin grandfather Rajanna Devanna Bakkawad possesses certificate of validity. Rajanna's two sons Shrinivas and Shridhar also possess certificates of validity. They were issued certificates of validity by following due process of law. Vigilance enquiry was conducted. Though the committee has recorded the reasons as to why the benefit of Shrinivas's validity cannot be extended to the petitioner but has overlooked the validity granted to Shridhar which was also issued by following due process of law and after holding a vigilance enquiry. The petitioner is entitled to derive the benefit of the decision in the matter of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti v. State of Maharashtra; 2023 SCC OnLine SC 326.***

4. Mr. Thorat would further submit that though there are consistent entries in the school record of the petitioner's relations of Mannervarlu, the committee has based its decision simply by referring to couple of entries in the school record of Rajanna Devanna wherein according to it the word 'Mannervarlu' was added subsequently. He would submit that even if the committee has now concluded that

Shriniwas had obtained certificate of validity by resorting to concealment of contrary record and fraud, till the time the committee does not confiscate and cancel his certificate of validity, petitioner cannot be deprived of deriving the benefit even of his validity apart from the validity of Shridhar.

5. Learned AGP would oppose the petition. He would submit that the committee has given cogent and convincing reasons to discard the claim, contrary entries which carry greater probative value were found to be manipulated but also noticed that Shriniwas was granted a certificate of validity. He was granted validity relying upon validity of individuals which were not in his blood relation. No reasoned order was passed. He did not go through the affinity test and the committee has now concluded that he had obtained the certificate of validity fraudulently and has decided to undertake reconsideration of the validity granted to him.

6. We have carefully considered the papers and considered the rival submissions.

7. As has been mentioned herein-above, there is no dispute about the genealogy and the fact that Rajanna Devanna and his two sons Shriniwas and Shridhar possess certificates of validity. The original file of Shriniwas has been made available to us. Apparently, the vigilance enquiry was conducted. Affidavits of couple of individuals

who possess certificates of validity, namely, Subhash Vitthalrao Chatlawar resident of Degloor, Taluka - Degloor, District - Nanded and one Bhujang Nagnathrao Nadamshetwar resident of Palja, Taluka - Bhokar, District - Nanded were filed on record. Even the copies of the order passed in their respective matters in the appeals preferred by them against rejection of their similar claims were placed on record and the order was passed holding him entitled to have a certificate of validity.

8. Obviously, since the committee has now decided to undertake a fresh scrutiny of the validity granted to him, it would not be proper for this Court in the present enquiry to objectively consider the inference drawn by the committee about he having obtained certificate of validity by practising fraud. He is not before us and we do not intend to cause any prejudice to his interest. The issue would be directly and substantially under consideration of the committee if and when it undertakes the enquiry about his validity. We are merely concerned about the observations in the matter of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti*** (supra) which have been reproduced by the committee in the impugned order for refusing to validate the petitioner's tribe certificate.

9. Paragraph no. 22 of the observations in the matter of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti v. State of Maharashtra; 2023 SCC OnLine SC 326*** reads as under :

“22. We can also contemplate one more scenario which is found in many cases. These are the cases where the applicant relies upon caste validity certificates issued to his blood relatives. Obviously, such a validity certificate has to be issued either by the Scrutiny Committee constituted in terms of the directions issued in Kumari Madhuri Patil's¹ case or constituted under the Rules framed under the 2000 Act. In such a case, firstly, the Scrutiny Committee must ascertain whether the certificate is genuine. Secondly, the Scrutiny Committee will have to decide whether the applicant has established that the person to whom the validity certificate relied upon by him has been issued is his blood relative. For that purpose, the applicant must establish his precise and exact relationship with the person to whom the validity certificate has been granted. Moreover, an enquiry will have to be made by the Scrutiny Committee whether the validity certificate has been granted to the blood relative of the applicant by the concerned Scrutiny Committee after holding due enquiry and following due procedure. Therefore, if the Scrutiny Committee has issued a validity certificate contemplated in terms of the decision in the case of Kumari Madhuri Patil², the examination will be whether the enquiry contemplated by the said decision has been held. If the certificate relied upon is issued after coming into force of the 2000 Act, the Scrutiny Committee will have to ascertain whether the concerned Scrutiny Committee had followed the procedure laid down therein as well as in the ST Rules or the SC Rules, as the case may be. For this verification, the Scrutiny Committee can exercise powers conferred on it by Section 9(d) by requisitioning the record of the concerned Caste Scrutiny Committee, which has issued the validity certificate to the blood relative of the applicant. If the record has been destroyed, the Scrutiny Committee can ascertain whether a due enquiry has been held on the basis of the decision of the Caste Scrutiny Committee by which caste validity has been granted to the blood relative of the applicant. If it is established that the validity certificate has been granted without holding a proper inquiry or without recording reasons, obviously, the caste scrutiny committee cannot validate the caste certificate only on the basis of such validity certificate of the blood relative.”

10. Bearing in mind these observations, sustainability of the order passed in the matter of Shriniwas or even sufficiency or otherwise of all the evidence that was available before the committee which granted him certificate of validity, is not the test to be applied. The fact remains that the vigilance enquiry was conducted. Affidavits of couple of individuals were obtained besides some documentary

evidence before he was granted certificate of validity by the speaking order. Consequently, it cannot be said that he was granted certificate of validity without assigning reasons or without following due process of law as are the parameters laid down in the matter of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti*** (supra).

11. Besides, admittedly, even Shriniwas's real brother Shirdhar has also been subsequently issued a certificate of validity by the scrutiny committee holding necessary enquiry and by passing a speaking order. It is not that as is being submitted by the learned AGP that his tribe certificate was validated only on the basis of certificate of validity possessed by his real brother Shriniwas. In addition, entries in the school record of the blood relatives were also noted and more importantly, even it was noted that he could get through the affinity test successfully. If such is the state-of-affairs, when the impugned order does not refer to and discuss anything about the validity possessed by Shridhar and does not consider as to why its benefit could not be extended to the petitioner, in our considered view, following the decision in the matter of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti*** (supra), the petitioner is entitled to derive the benefit of the validities, obviously subject to the final outcome of the matter of the Shriniwas, which the committee has now decided to re-open.

12. Consequently, when the petitioner's learned advocate expressly submits that the petitioner is ready to run the risk of facing the consequences as contemplated in the matter of ***Shweta Balaji Isankar Vs. State of Maharashtra and others (writ petition no. 6320 of 2017)***, the petitioner deserves to be granted conditional certificate of validity.

13. In the result, the following order :-

I) The writ petition is partly allowed.

II) The impugned order is quashed and set aside. The respondent - committee shall immediately issue tribe validity certificate to the petitioner as belonging to 'Mannervarlu' scheduled tribe. It shall be subject to the final outcome of the matters which the committee has decided to reopen.

III) The petitioner shall not be entitled to claim equities.

IV) Rule is made absolute accordingly.

[NEERAJ P. DHOTE]
JUDGE

[MANGESH S. PATIL]
JUDGE

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