



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 15241 OF 2023

Kishor Laluprasad Yambadwar,
Age : 27 years, Occu : Student,
R/o : Choti Galli Biloli, Tq. Biloli,
District – Nanded

.. Petitioner

Versus

- 1] The State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantalaya, Mumbai-32.
- 2] The Scheduled Tribe Certificate
Scrutiny Committee,
Aurangabad Division, Aurangabad,
Through its Member Secretary
- 3] Sub-Divisional Officer,
Biloli, Nanded
- 4] Government Ayurvedik College,
Through its Principal,
Nanded – 431 601

.. Respondents

...
Advocate for petitioner : Mr. A.S. Golegaonkar h/f. Mr.Madhur A. Golegaonkar
AGP for the respondent – State : Mr. K.N. Lokhande
...

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

DATE : 13 DECEMBER 2023

ORDER (MANGESH S. PATIL, J.) :

Heard. Rule. Rule is made returnable forthwith. Learned
AGP waives service for the respondents. At the joint request of the
parties, the matter is heard finally at the stage of admission.

2. The petitioner is questioning the legality of the order of the respondent no. 2 scrutiny committee whereby the committee has refused to validate his Mannervarlu scheduled tribe certificate.

3. The learned advocate for the petitioner would, at the outset, submit that in an independent enquiry, the committee had invalidated a similar claim of petitioner's brother - Kiran. Though the orders are separate, the same set of evidence was subjected to scrutiny. Kiran had challenged that order in writ petition no. 691 of 2018. This Court by the order dated 04-09-2023 considered the validities in the family together with a 1344 *Fasli* (1934 A.D.) document together with translation and having noted that it was having a greater probative value, had directed certificate of validity to be issued to Kiran by setting aside a similar order of the committee.

4. He would, therefore, submit that apart from the availability of the pre-constitutional record, this Court had an occasion to consider the validities in the family and had directed certificate of validity to be issued to Kiran. Following the principles laid down in the matter of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others; 2023 SCC Online SC 326***, even the petitioner is entitled to have a certificate of validity.

5. The learned AGP would oppose the petition and he would submit that the committee has assigned cogent reasons for not relying upon the validities in the family. It has also considered the pre-constitutional documents and has assigned sufficient reasons to discard it. There is no perversity or arbitrariness and petition be dismissed.

6. At the outset, it is necessary to note that the committee in paragraph no. 7 of the impugned order has given list of number of individuals who are blood relatives of the petitioner possessing certificates of validity.

7. The committee has only considered the validities issued to Gangaram Nabaji Yambadwar, Krushna Laluprasad Yambadwar, Akshay Nagnath Yambadwar, Govind Damanna Yambadwar and Kiran Laluprasad Yambadwar and assigned reasons as to why it could not be said that those were issued by following due process of law. There is no observation in respect of all the validity holders.

8. Be that as it may, admittedly, petitioner's real brother Kiran had also faced invalidation at the hands of the committee which passed the order on 27-10-2017. The documents and evidence being relied upon by Kiran in his file and the one referred to by the petitioner in the present matter are almost same. In writ petition no. 691 of 2018, this

Court had already undertaken scrutiny of that order and had considered not only some of the validities but also objectively scrutinized the Urdu document of 1344 *Fasli* (1934 A.D.) and observed that it would carry greatest probative value being pre-constitutional document. If these were the observations of this Court in the matter of Kiran under the order dated 04-09-2023, one wonders as to how the Committee could have again resorted to same reasoning for discarding that 1344 *Fasli* document when the impugned order was passed subsequently, on 04-12-2023. Be that as it may, since this Court has already recorded its observations in respect of that Urdu document in the matter of Kiran, no separate view can be taken.

9. As has been observed in the matter of Kiran, even if the committee is now of the view that the validities were obtained by resorting to some concealment, till the time it does not undertake a process for recalling and cancelling the certificate of the petitioner's real brother Kiran, the petitioner cannot be deprived of deriving the benefit of the validity possessed.

10. Obviously, whether the respondent - committee has the jurisdiction and can undertake a fresh scrutiny, is a matter which cannot be commented upon in this case. Similarly, whether the facts which according to the committee constitute fraud would also be the subject matter which would be directly and substantially in issue in the

matters to be re-opened. Those validity holders are not before us and we do not intend to cause any prejudice to their interest by making any comment on these observations of the committee.

11. In the light of the above, 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 re-open.

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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