

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8822 OF 2022
WITH
INTERIM APPLICATION NO. 20081 OF 2022
WITH
INTERIM APPLICATION NO. 17536 OF 2022

Bharat Nagu Garud

Age 54 years, R/o Omkar, Plot No. 26
Saraswati Nagar, Near Bali Mandir,
Rasbihari Link Road, Panchavati, Nashik

..Petitioner

Versus

1. State Of Maharashtra Thr. Its Secretary
Tribal Development Dept And Ors.

**2. Scheduled Tribe Certificate Scrutiny
Committee**, Nashik Division, Nashik

3. Additional Chief Secretary
(Revenue, Stamp Duty & Registration)
Revenue & Forest Department,
Mantralaya, Mumbai

**4. Inspector of General of Registration &
Control of Stamp**, Pune

5. Sub-Divisional Officer, Baglan Sub-Division
Tahsil Baglan, Dist. Nashik

.. Respondents

WITH
WRIT PETITION NO. 9071 OF 2022
WITH
INTERIM APPLICATION NO. 20092 OF 2022

Pravin Rohidas Garud

Age 40 years, R/o Utrane, Tahsil Baglan,
District Nashik

.. Petitioner

Versus

1. State Of Maharashtra Thr. Its Secretary, Tribal Development Dept. Mantralaya Mumbai
2. Scheduled Tribe Certificate Scrutiny Committee, Nashik Division, Nashik
3. Sub-Divisional Officer, Baglan Sub-Division Tahsil Baglan, Nashik
4. Sub-Divisional Officer, Kalwan Sub-Division Tahsil Kacheri Campus, Nashik
5. Zilha Parishad Nashik, through its Chief Executive Officer, Dist. Nashik
And
Jan Jaati Kalyan Aashram, Nashik

.. Respondents

... Applicant

**WITH
WRIT PETITION NO. 9072 OF 2022
WITH
INTERIM APPLICATION NO. 20093 OF 2022**

Ramdas Nagu Garud,
Age 58 years, R/o Vakratunda Niwas,
pandurang Nagar, Vinchoor,
Tahsil Niphad, Dist. Nashik

.. Petitioner

Versus

1. **State Of Maharashtra** Through. Its Secretary, Tribal Development Dept. Mantralaya Mumbai
2. **Scheduled Tribe Certificate Scrutiny Committee,** Nashik Division, Nashik
3. **Sub-Divisional Officer, Baglan Sub-Division** Tahsil Baglan, Nashik
4. **Tahsildar, Baglan,** Tahsil Kacheri Campus, Tahsil Baglan Dist. Nashik

5. Zilha Parishad Nashik, through its
Chief Executive Officer, Dist. Nashik

.. Respondents

And

Jan Jaati Kalyan Aashram, Nashik

... Applicant

**WITH
WRIT PETITION NO. 9073 OF 2022
WITH
INTERIM APPLICATION NO. 20094 OF 2022**

Rohidas Nagu Garud,
Age 67 years, R/o utrane, Tahsil Baglan,
District Nashik

.. Petitioner

Versus

1. State Of Maharashtra Thr. Its Under Secretary
Tribal Development Dept. Mantralaya, Mumbai
2. Scheduled Tribe Certificate Scrutiny Committee,
Nashik Division, Nashik
3. Sub-Divisional Officer, Baglan Sub-Division
Tahsil Baglan, Nashik
4. Sub-Divisional Officer, Kalwan Sub-Division
Tahsil Kacheri Campus, Nashik
5. Assistant Registrar Co-operative Societies,
Beglan A.P.M.C. Market Yard,
Tahsil Baglan, Dist. Nashik
6. Utrane Vividh Karyakari Seva Sahakari
Sanstha Maryadit, through its Secretary,
Tahsil Baglan, Dist. Nashik

.. Respondents

And

Jan Jaati Kalyan Aashram, Nashik

.. Applicant

**WITH
WRIT PETITION NO. 9074 OF 2022
WITH
INTERIM APPLICATION NO. 20101 OF 2022**

Priyanka Ramdas Garud @
Mrs. Priyanka W/o Yogesh Manmat
Age 31 years, R/o Vakratunda Niwas,
Pandurang Nagar, At post Vinchoor,
Tahsil Niphad, Dist. Nashik

.. Petitioner

Versus

1. State Of Maharashtra Thr. Its Under Secretary,
Tribal Development Dept. Mantralaya Mumbai
2. Scheduled Tribe Certificate Scrutiny Committee,
Nashik Division, Nashik
3. Sub-Divisional Officer, Baglan Sub-Division
Tahsil Baglan, Nashik

4. Sub-Divisional Officer, Kalwan Sub-Division
Tahsil Kacheri Campus, Nashik

.. Respondents

And

Jan Jaati Kalyan Aashram, Nashik

.. Applicant

**WITH
WRIT PETITION NO. 9075 OF 2022
WITH
INTERIM APPLICATION NO. 20096 OF 2022**

Nilima Rohidas Garud @
Mrs. Nilima W/o Sachin Nikam
Age 34 years, R/o Utrane, Tahsil Baglan
Dist. Nashik

.. Petitioner

Versus

1. State Of Maharashtra Thr. Its Secretary, Tribal
Development Dept. Mantralaya Mumbai
2. Scheduled Tribe Certificate Scrutiny Committee,
Nashik Division, Nashik
3. Sub-Divisional Officer, Baglan Sub-Division
Tahsil Baglan, Nashik

4. Sub-Divisional Officer, Kalwan Sub-Division
Tahsil Kacheri Campus, Nashik

.. Respondents

And

Jan Jaati Kalyan Aashram, Nashik

.. Applicant

**AND
WRIT PETITION NO. 8513 OF 2022**

1. Umakant Balbhim Sarjerao
Age 54 years, R/o Village and Post Barloni
Tq. Madha, Dist. Solapur
2. Rohidas Jalindar Sarjerao
Age 40 years, R/o Ganeshnagar, Kurduwadi
Tq. Madha, Dist. Solapur
3. Jagruti Nandkumar Sarjerao
Age 34 years, R/o A-14, Trupti Corner,
Modikhana Solapur, Dist. Solapur
4. Pratap Dattatray Sarjerao
Age 45 years, R/o Survey No.650, 1/4, Pokle
Vasti Bibwewadi, Pune
5. Suvarna Dattatray Sarjerao
Age 42 years, R/o Survey No.650, 1/4, Pokle
Vasti Bibwewadi, Pune

.. Petitioners

Versus

1. State Of Maharashtra through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai-400032
2. Scheduled Tribe Certificate Scrutiny Committee,
Pune, Division Pune
3. Collector, Solapur
4. Shri. Sant Goroba Kaka Vidyalay, through its
Secretary, Saundana, Tq. Kalamb, Dist Osmanabad
5. Survase High School And Jr. College, through its
Secretary, Asara Society, Hotgi Rd, Solapur
District Solapur.
6. Maharashtratriya Mandal's, through its

Secretary, Cap. Shivrampant Damale Prashala,
Veer Savarkar Nagar, Gultekdi, Pune

... Respondents

WITH
WRIT PETITION NO. 13292 OF 2022
(Not on Board, taken on board)

Kishor Tryambak Bhamare
Versus

... Petitioner

State Of Maharashtra And Ors.

... Respondents

AND
WRIT PETITION NO. 13403 OF 2023
WITH
INTERIM APPLICATION NO. 16750 OF 2023

Hemant Kashinath Gavali
Versus

... Petitioner

State Of Maharashtra Through Principal Secretary

... Respondents

AND
WRIT PETITION NO. 13645 OF 2023

Rajeshwar Wamanrao Aher
Age 53 years, R/o Adim Bramhanandnayak,
Plot No. 7, Shree Samarth Colony, Shanti Nagar,
Panchavati, Nashik
Versus

.. Petitioner

1. State Of Maharashtra Through its Secretary,
Tribal Development Department,
Mantralaya Mumbai

2. Scheduled Tribe Certificate Scrutiny Comittee,
Nashik

.. Respondents

Mr. Ravindra Adsure a/w Mr. Yash Sonawane, for the Petitioners in WP No.8822/2022, WP/9071/2022, WP/9072/2022, WP/9073/2022, WP/9074/2022 & WP/9075/2022.

Mr. R.K. Mendadkar a/w Ms. Komal Gaikwad, Ms. Sarika Mendadkar, Mr. Siddhant Sawai, for Petitioner in WP No.8513/2023, WP No.13403/2023, WP/115/2023 and WP/13292/2022.

Mr. Vivek V. Salunkhe i/b. Mr. Dinesh R. Shinde for the petitioner.

Ms. Priyanka Shaw for Respondent Nos.5 & 6 in WP/8513/2022.

Mr. Nitin Gangal, Spl. Counsel a/w Ms. S. S. Bhende, AGP a/w Ms. P. N.

Diwan, AGP for State.

Ms. S.S. Bhende, AGP for the State in WP/13645/2023.

Dr. Uday Warunjikar for Intervenor/Applicants in IA/20081/2022, IA/20092/2022, IA/20093/2022, IA/20094/2022, IA/20101/2022.

CORAM : G. S. KULKARNI &
JITENDRA JAIN, JJ.

DATE : NOVEMBER 01, 2023.

Judgment (Per G. S. Kulkarni, J.):-

1. Rule, made returnable forthwith. Respondents waive service. By consent of the parties, heard finally.
2. These are ten petitions filed under Article 226 of the Constitution of India. Each of these petitions assail orders passed by the Caste Scrutiny Committee constituted under the Maharashtra Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 (for short, “**2000 Act**”), whereby the Caste Scrutiny Committee by exercising a suo motu power of review has recalled the earlier orders granting validity to the tribe/caste certificates of the petitioners.

3. As these petitions involve common questions of law they are being decided by this common judgment.

4. The petitioners in these petitions belong to Scheduled Tribes- Koli-Mahadeo, Thakur and Thakar respectively. They were issued tribe/caste certificates by the concerned designated officers depicting that they belong to the said Scheduled Tribes. The tribe/caste certificates were validated by the Caste Scrutiny Committee many years back as may be discussed in the later part of the judgment. The question which arises for consideration is as to whether the Caste Scrutiny Committee as constituted under the 2000 Act would have jurisdiction to “suo motu review” its past orders granting Caste Validity Certificates to the petitioners.

5. It is not in dispute that many years back, Caste Validity Certificates were granted to the petitioners, under the orders passed by the Caste Scrutiny Committee. Also the petitioners had altered their position having acted upon the Caste Validity Certificates, *inter alia* in regard to securing employment, education facilities etc. Thus, after long years of the validity being conferred by the Caste Scrutiny Committee to the petitioner’s tribe/caste certificates, such decision granting validity to their tribe/caste certificates was sought to be reviewed by the Caste Scrutiny

Committee, resulting in revocation/recalling such orders granting validity to the tribe/caste certificates of the petitioners.

6. For convenience, we divide this batch of petitions into two groups. The first batch of petitions raise a challenge to the orders passed by the Caste Scrutiny Committee recalling the earlier decision granting validity to the tribe/caste certificates issued in favour of the petitioners. The second group of petitions challenge a show cause notice issued by the Caste Scrutiny Committee calling upon the petitioners as to why in exercise of the suo motu powers of review, the orders granting validity to the tribe/caste certificates of the petitioners be not recalled.

7. The first batch of petitions are:-

- (i) Writ Petition No. 8822 of 2022 (Bharat Nagu Garud vs. State of Maharashtra & Ors.),
- (ii) Writ Petition No. 9071 of 2022 (Pravin Rohidas Garud vs. State of Maharashtra & Ors.),
- (iii) Writ Petition No. 9072 of 2022 (Ramdas Nagu Garud vs. State of Maharashtra & Ors.),
- (iv) Writ Petition No. 9073 of 2022 (Rohidas Nagu Garud vs. State of Maharashtra & Ors.),
- (v) Writ Petition No. 9074 of 2022 (Priyanka Ramdas Garud @

Mrs. Priya W/o. Yogesh Manmat vs. State of Maharashtra & Ors.),

(vi) Writ Petition No. 9075 of 2022 (Nilima Rohidas Garud @ Mrs. Nilima W/o. Sachin Nikam vs. State of Maharashtra & Ors.).

8. It would be necessary to briefly note the relevant facts in each of these petitions.

(i) Writ Petition No. 8822 of 2022
(Bharat Nagu Garud vs. State of Maharashtra & Ors.)

9. The petitioner in this petition is in the employment of Government of Maharashtra with effect from 22 June, 1993. As on date, he is holding the post of a Joint District Registrar (Class I), Mumbai Suburban District. He belongs to Koli-Mahadeo Scheduled Tribe. A tribe/caste certificate was issued to him by Tahsildar, Balgan, dated 12th May 1992. The petitioner had applied to the Caste Scrutiny Committee for obtaining validation of the tribe/caste certificate as per the 2000 Act. The Caste Scrutiny Committee by its order dated 14th January 2005 had issued a caste validity certificate to the petitioner. Such decision at all material times has remained in operation during the petitioner's employment.

10. However, by the impugned order dated 13th May 2022, the Caste

Scrutiny Committee purportedly exercising powers of review has set aside/recalled its order dated 14th January 2005, whereby validity of the tribe/caste certificate was granted in favour of the petitioner. The caste validity certificate has been cancelled by the Caste Scrutiny Committee after a period of 16 years as assailed in the present petition.

(ii) Writ Petition No. 9071 of 2022
(Pravin Rohidas Garud vs. State of Maharashtra & Ors.)

11. The petitioner in this petition joined the service as a Shikshan Sevak at the Zilla Parishad Primary School at Ghatalbari on 29th May, 2003 and he is currently serving as a Graduate Teacher with Zilla Parishad Primary School at Nalwadi. He belongs to Koli Mahadeo Scheduled Tribe caste. A tribe/caste certificate dated 14th March 2000, was issued to him by the Sub-Divisional Officer, Kalvan. The petitioner applied to the Caste Scrutiny Committee for obtaining validation of the tribe/caste certificate. The Caste Scrutiny Committee by an order dated 9th September 2005 granted caste validity certificate to the petitioner. At all material times, such order/validity of the tribe/caste certificate had remained valid for the purposes it was issued and as permissible. By the impugned order dated 13th May 2022, the Caste Scrutiny Committee exercising suo motu powers of review, has set aside/recalled its order dated 9th September 2005, by which validity of the tribe/caste certificate was granted in favour of the

petitioner. Thus, the caste validity certificate has been cancelled by the Caste Scrutiny Committee after a period of 16 years and which is assailed before us in this petition.

(iii) Writ Petition No. 9072 of 2022
(Ramdas Nagu Garud vs. State of Maharashtra & Anr.)

12. The petitioner in this petition joined employment as a Primary Teacher at the Zilla Parishad Primary School at Gazarwadi on 26th December, 1983. On 31st December, 2021, he superannuated from the post of Headmaster from Zilla Parishad Primary School at Nandgaon. He belongs to Koli Mahadeo Scheduled Tribe. A tribe/caste certificate was issued to him by Tahsildar, Baglan dated 29th August 1981. The petitioner had applied to the Caste Scrutiny Committee for obtaining validation of the tribe/caste certificate. The Caste Scrutiny Committee by its order dated 29th November 2012, granted a caste validity certificate dated 7th December 2012 to the petitioner which at all material times remained in operation. By the impugned order dated 13th May 2022, the Caste Scrutiny Committee suo motu exercising powers of review, has set aside/recalled its order dated 29th November 2012, whereby validity of the tribe/caste certificate has been cancelled by the Caste Scrutiny Committee, after a period of 10 years which is being assailed in this petition.

(iv) Writ Petition No. 9073 of 2022

(Rohidas Nagu Garud vs. State of Maharashtra & Anr.)

13. The petitioner in this petition was in employment as a Member, Utrane Gram Panchayat for the term of 2010-2015. He belongs to Koli Mahadeo Scheduled Tribe caste. A tribe/caste certificate was issued to him by Sub-Divisional Officer, Kalvan dated 1st June 2010. The petitioner applied to the Caste Scrutiny Committee for obtaining validation of the tribe/caste certificate as per the provisions of the 2000 Act. The Caste Scrutiny Committee by an order dated 20th May 2011, granted a caste validity certificate dated 25th May 2011 to the petitioner, which at all material times had remained in operation. By the impugned order dated 13th May 2022, the Caste Scrutiny Committee exercising powers of a suo motu review, has set aside/recalled its order dated 20th May 2011, whereby validity of the tribe/caste certificate as granted in favour of the petitioner has been cancelled by the Caste Scrutiny Committee after a period of 11 years as assailed in this petition.

(v) **Writ Petition No. 9074 of 2022**
(Priyanka Ramdas Garud vs. State of Maharashtra & Anr.)

14. The petitioner in this petition belongs to Koli Mahadeo Scheduled Tribe. A tribe/caste certificate was issued to him by Sub-Divisional Officer, Kalvan dated 18th June 2007. The petitioner applied to the Caste Scrutiny Committee so as to obtain a validity of the tribe/caste certificate

as per the provisions of the 2000 Act. The Caste Scrutiny Committee by an order dated 20th September 2008, granted a validity certificate to the petitioner, which at all material times remained in operation. By the impugned order dated 13th May 2022, the Caste Scrutiny Committee suo motu exercising powers of review has set aside/recalled its order dated 20th September 2008, whereby validity to the tribe/caste certificate was granted in favour of the petitioner, after a period of 14 years. Such order of the Caste Scrutiny Committee is assailed in this petition.

(vi) Writ Petition No. 9075 of 2022
(Nilima Rohidas Garud vs. State of Maharashtra & Anr.)

15. The petitioner in this petition belongs to Koli Mahadeo Scheduled Tribe. A tribe/caste certificate was issued to him by Sub-Divisional Officer, Kalvan dated 31st March 2005. The petitioner applied to the Caste Scrutiny Committee for obtaining validation of the said certificate as per the provisions of the 2000 Act. The Caste Scrutiny Committee by an order dated 9th September 2005 granted a caste validity certificate to the petitioner, which at all material times had remained in operation. By the impugned order dated 13th May 2022, the Caste Scrutiny Committee exercising suo muto powers of review has set aside/recalled its order dated 9th September 2005, whereby validity of the tribe/caste certificate as granted in favour of the petitioner has been cancelled by the Caste

Scrutiny Committee after a period of 17 years, which has been assailed in this petition.

16. Having noted the facts of each of the petitions, we may now advert to the contentions as urged on behalf of the petitioners.

17. The challenge as mounted by the petitioners to the impugned orders passed by the Caste Scrutiny Committee, is primarily on the ground that the Caste Scrutiny Committee has no jurisdiction to review its orders much less to exercise any *suo motu* review powers, so as to reopen a concluded validity certificates granted in the past, and in the present case after many years of the orders passed by the Caste Scrutiny Committee. In supporting such contention, learned counsel for the petitioner has mainly relied on a recent decision of a co-ordinate Bench of this Court in the case of *Rakesh Bhimashankar Umbarje & Ors. vs. State of Maharashtra, through its Secretary, Tribal Development Department & Anr.*¹ It is submitted that the Division Bench of this Court has examined the provisions of the 2000 Act as also the position in law and has held that even in the case of fraud, the Caste Scrutiny Committee which exercises quasi judicial power, has no jurisdiction to *suo motu* review its past decisions. Learned Counsel for the petitioner has also relied on the

1 2023 SCC OnLine Bom 1013

decision of the Supreme Court in *Naresh Kumar & Ors. vs. Government of Delhi*² to contend that the Caste Scrutiny Committee cannot assume suo motu jurisdiction to review its previous orders when such jurisdiction has not been conferred by law.

18. Ms. Diwan, learned Assistant Government Pleader who initially represented the State, has also not disputed the position in law as helddown by this Court in the said decision specifically on the interpretation of the provisions of 2000 Act, and more particularly when the Court has held that considering the provisions of the 2000 Act the Caste Scrutiny Committee would not have jurisdiction to exercise any review powers. Ms. Diwan, has not brought to our notice any decision which by any different interpretation of the 2000 Act, would displace the said position in law as held in the decision of this Court in *Rakesh Bhimashankar Umbarje* (supra) case.

19. Later on Mr. Gangal, learned Special Counsel has appeared and has made submissions on behalf of the State. In opposing these petitions he would submit that the contention as urged on behalf of the petitioners that the Caste Scrutiny Committee has no jurisdiction to suo motu review the proceedings, ought not to be accepted. It is his contention that the Caste

2 2019 SCC 416

Scrutiny Committee has “inherent jurisdiction” to review its own order. In support of such contention, Mr. Gangal has placed reliance on the decision of co-ordinate Bench of this Court in *Smt. Sangita Sharad Kolse vs. State of Maharashtra & Ors.*³, *Devendra Gurunath Khedgikar vs. The Scheduled Tribe Certificate Scrutiny Committee, Pune & Anr.*⁴, *Vishnu Rajaram Thakar vs. State of Maharashtra, through its Secretary, Tribal Development Dept. & Anr.*⁵ and *J. Chitra vs. District Collector and Chairman, State Level Vigilance Committee, Tamil Nadu & Ors.*⁶

20. Mr. Gangal would next submit that in respect of the petitions as filed by the members of Garud family, the observations of the Supreme Court in its judgment dated 10 December, 2021 in case of *Rushikesh Bharat Garud vs. The State of Maharashtra & Ors.*,⁷ are relevant. Mr. Gangal, however, has stated that the case of Rushikesh Bharat Garud clearly stands on a different footing and would be required to be separately heard and is not part of the present proceedings. The submission of Mr. Gangal referring to the said judgment of the Supreme Court is to the effect that the Caste Scrutiny Committee was under an obligation to reopen the cases of these petitioners belonging to the Garud family. This contention

3 2006(5) ALL MR 565

4 2009(2) ALL MR 869

5 Writ Petition No. 647 of 2022 decided on 9 March, 2022

6 (2021) 9 SCC 811

7 Civil Appeal No. 7442 of 2021

of Mr. Gangal is without prejudice to the contention, that the Caste Scrutiny Committee has inherent jurisdiction to reopen the cases and exercise power of review.

21. Mr. Gangal has also drawn our attention to an order passed by the Supreme Court in case of *Nilima Rohidas Garud & Ors. vs. The State of Maharashtra & Anr.*⁸ another member of the Garud family wherein the Supreme Court has held that the subsequent order passed by the appropriate authority is a new cause of action and as and when the fresh proceedings are initiated challenging the subsequent order, the same are required to be considered in accordance with law and on its own merits and all the contentions and/or defences, which may be available to the respective parties were kept open to be considered by the High Court and/or appropriate forum before whom the proceedings are initiated. Nilima Rohidas Garud is one of the petitioners before the Court in the present proceedings.

22. Mr. Gangal thus relying on such order passed by the Supreme Court has submitted that there is a direction to the Caste Scrutiny Committee to pass a fresh order in accordance with law and on its own merits on the basis of the material available on record. It is submitted that

8 Miscellaneous Application No. 888 of 2022 in SLP(C) No. 8825/2022

the petitioners hence, are precluded from urging an issue as to the jurisdiction of the Caste Scrutiny Committee to reopen the cases of the petitioners.

23. Learned counsel for the petitioners responding to the submissions as urged on behalf of the State, would submit that the contentions on behalf of the State are totally untenable. Firstly, it is his submission that the Scrutiny Committee which is a creature of the statute would not possess a review jurisdiction, much less to suo motu review its order. It is submitted that it is a well settled principle of law as laid down in catena of judgments, that the power of review is required to be conferred by law and that there cannot be an inherent power vested in the Caste Scrutiny Committee, to exercise a review jurisdiction. It is his submission that if such contention as urged on behalf of the State Government is accepted, it would bring about a regime of total uncertainty and/or an open licence to Caste Scrutiny Committee to revisit and re-open concluded cases. It is his submission that such is not the object of the legislation. In support of his submission, learned counsel for the petitioner has drawn the Court's attention to the provisions of the 2000 Act and consideration of these provisions in the recent decision of this Court in *Rakesh Bhimashankar Umbarje (supra)*, *Anil s/o. Shivram Bandawar vs. District Caste*

Certificate Verification Committee, Gadchiroli & Anr.⁹ and Naresh Kumar & Ors. (supra).

24. The rival contentions have arisen for our consideration.

Analysis and Conclusion:-

25. At the outset, it is necessary to note that the petitioners in the first batch of petitions were granted tribe/caste certificates between the period 1992 to 2005. The caste certificates had undergone enquiry by the Caste Scrutiny Committee, inasmuch as by orders passed by the then Caste Scrutiny Committee's, the petitioners were granted tribe validity certificate between the year 2005 to 2012. It is almost after 16 years in three cases and about 10 to 11 years in other cases, a show cause notice came to be issued to the petitioners by the Caste Scrutiny Committee to *suo motu* reopen the validity, which was granted by the Caste Scrutiny Committee to their caste / tribe certificates. Consequent thereto by the impugned orders which are passed about a year back, the validity to the petitioner's Caste / tribe certificates granted by the original orders has been cancelled and the caste validity certificates of the petitioners have been invalidated.

9 2021(5) Mh. L.J. 345

26. In the present proceedings the petitioners are protected by interim order dated 29 July, 2022 passed by the co-ordinate Bench of this Court (Coram : Dipankar Datta, C.J., as His Lordship then was & M.S. Karnik, J.). The interim orders have continued to operate.

27. Before we dwell on the legal issue, a bird's eye view of the relevant dates in the first group of petitions, in relation to each of the petitioner's caste certificate, the validity being initially granted by the Caste Scrutiny Committee, the date of the show cause notice and the date of the impugned orders can be noted in the following tabular statement:

Name of the petitioner	Date of Caste Certificate	Date of Validity Certificate	Date of SCN for Review	Date of Review & Invalidation Order	W.P. No. & Filing Date
Bharat Nagu Garud	12.05.1992	14.01.2005	11.06.2021	13.05.2022	8822/2022 dt. 13.7.2022
Pravin Rohidas Garud	14.03.2000	09.09.2005	11.06.2021	13.05.2022	9071/2022 dt. 13.7.2022
Ramdas Nagu Garud	29.08.1981	07.12.2012	11.06.2021	13.05.2022	9072/2022 dt. 13.7.2022
Rohidas Nagu Garud	01.06.2010	25.05.2011	11.06.2021	13.05.2022	9073/2022 dt. 18.7.2022
Priyanka Ramdas Garud	18.06.2007	20.09.2011	11.06.2021	13.05.2022	9074/2022 dt. 21.7.2022
Nilima Rohidas Garud	31.03.2005	09.09.2005	11.06.2021	13.05.2022	9075/2022 dt. 21.7.2022

28. It is clear from the above chart that the Caste Validity Certificate granted by the Caste Scrutiny Committee was sought to be suo motu reopened by Caste Scrutiny Committee, by issuing show cause notices in

question after a long long lapse of time. This was oblivious to the fact that from the period validity was granted, the parties had certainly changed their position inasmuch as the employment benefits, educational benefits etc., were availed by the petitioner, which were enjoyed by them for last more than 15 years as noted above. For eg. in case of Bharat Garud, he is in employment and is about to retire in two years. In the case of Petitioner Ramdas Nagu Garud has already superannuated. The case of other petitioners is also not different.

29. In the above circumstances, the issue which arises for our consideration and more particularly considering the scheme of 2000 Act, is as to whether it was permissible for the Caste Scrutiny Committee, to issue show cause notices to the petitioners exercising suo motu review jurisdiction, so as to review the decision taken by the Caste Scrutiny Committee's in the years 2005, 2011 and 2012, granting validity to the tribe/caste certificates, as granted in favour of the petitioners so as to invalidate the earlier decisions. It would also be necessary to consider whether it was permissible for the Caste Scrutiny Committee, which is a quasi-judicial committee, to reopen such cases after such long lapse of time or on an allegation of fraud having being practiced by the petitioners in obtaining the caste validity certificates.

30. In so far as the jurisdiction of a quasi judicial authority to exercise review powers is concerned, in our opinion, the reliance of the petitioner on the decision of the Supreme Court in the case of ***Naresh Kumar & Ors. Vs. Government (NCT of Delhi)*** (supra), is quite apposite. In such decision the Supreme Court, although in the context of an award under the Land Acquisition Act and whether there would be a power to review the award, reiterated the well-settled principle of law, that the power of review can be exercised only when the statute provides for the same. The Supreme Court observed thus:

“13. In Patel Narshi Thakershi vs. Pradyuman Singhji Arjunsinghji, Chandra Bhan Singh vs. Latafat Ullah Khan, Kuntesh Gupta vs. Hindu Kanya Mahavidyalaya, State of Orissa vs. Commr. Of Land Records & Settlement and Sunita Jain vs. Pawan Kumar Jain, this Court held that the power to review is not an inherent power. It must be conferred by law either expressly/specifically or by necessary implication and in the absence of any provision in the Act/ Rules, review of an earlier order is impermissible as review is a creation of statute. Jurisdiction of review can be derived only from the statute and thus, any order of review in the absence of any statutory provision for the same is a nullity, being without jurisdiction.”

31. A Division Bench of this Court in the case of ***Anil s/o Shivram Bandawar*** (supra), was confronted with an issue as to whether the Caste Scrutiny Committee would have any statutory power either under the 2000 Act or the Rules framed thereunder to “re-examine” a Caste Validity Certificate already issued. The Court referring to an earlier decision in the

case *Apoorva d/o. Vinay Nichale vs. Divisional Caste Scrutiny Committee*

& Ors.¹⁰, observed as under:-

“6. We find that it was not permissible for the Caste Scrutiny Committee to have re-examined the caste certificate and Caste Validity Certificate issued to the petitioner on the grounds on which it was so sought to be so re-examined as stated in the show cause notice. It is undisputed that there is no provision either in the Act of 2000 or the Rules framed thereunder to re-open/re-examine the matter of issuance of a Validity Certificate by it. This aspect as regards absence of statutory power to do so stands concluded by the decision of this Court in Apoorva Vinay Nichale (supra). It has been held in clear terms that merely because a different view on the same facts could be arrived at, the same would not entitle the Scrutiny Committee dealing with a subsequent caste-claim to reject such claim. As stated above it is on the basis of fresh material in the form of old revenue records of the year 1920-24 that the exercise of re-examining the Caste Validity Certificate was undertaken by the Scrutiny Committee. We thus find that in absence of any statutory power either under the Act of 2000 or the Rules framed thereunder to re-examine a Caste Validity Certificate already issued, the exercise undertaken by the Scrutiny Committee pursuant to the show cause notice issued by it was without jurisdiction.”

32. In *Akash Sanjay Gawali v/s. State of Maharashtra and Ors.*¹¹ a Division Bench of this Court held that the Court had repeatedly stated that Caste Scrutiny Committee did not have a suo motu power of review, as such power was not conferred by the statute, also none could be so inferred. The relevant observations of the Division Bench are required to be noted with read thus:-

“7. We find it surprising that we have to repeatedly state that this committee has no Suo motu power of review. None is conferred by statute. None can be necessarily inferred. The impugned order is entirely without jurisdiction.”

¹⁰ 2006(6) Mh.L.J. 401

¹¹ Writ Petition No. 2305 of 2020 dated 2 February, 2020

33. In *Rakesh Bhimashankar Umbarje* (supra), a Division Bench of this Court of which one of us (G.S. Kulkarni, J.) was a member, was confronted with a similar issue in regard to the jurisdiction of the Caste Scrutiny Committee to review its own orders. This decision takes into consideration the entire scheme of the said Act and more particularly the provisions of Sections 6, 7, 9 and 15 of the Act, so as to examine whether the 2000 Act conferred any review jurisdiction on the Caste Scrutiny Committee, which itself is a statutory body, being the creature of the 2000 Act. . The Court after examining the scheme of the legislation and the purport of these provisions, categorically held that the legislature consciously has avoided to confer any power of review on the Caste Scrutiny Committee to review/revisit its own decision even in case of fraud, misrepresentation or suppression of material facts. It was observed that, in fact, this would defeat the mandate of sub-section (2) of Section 7 of the 2000 Act. It was also observed that it cannot be countenanced that a Caste Scrutiny Committee assumes jurisdiction to review its orders merely on a complaint filed by any person and upset any earlier orders passed by it which would lead to an absurdity and not recognized by the legislation. The relevant observations of the Court in some detail are required to be noted which read thus:-

“15. In the above circumstances, the issue which would fall for our consideration is whether the Caste Scrutiny Committee at all had jurisdiction to review its own decision granting caste validity certificate to the petitioners, including those granted under orders passed by this Court.

16. In this context, we need to examine the legislation under which the Caste Scrutiny Committee is constituted and is required to exercise its jurisdiction. The legislation is the Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000. The Act provides for the regulation of the issuance and verification of the caste certificates to the persons belonging to the Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category and for matters connected therewith or incidental thereto. Section 2 of the Act deals with the definitions such as caste certificates, competent authority, scrutiny committee, etc.

17. Section 4 of the Act requires the caste certificates to be issued by the competent authority. Sub-section (2) of Section 4 of the Act states that a caste certificate issued by any person, officer or authority other than the competent authority shall be invalid. The caste certificate issued by the competent authority shall be valid only subject to the verification and grant of validity certificate by the Scrutiny Committee. Section 5 of the Act deals with the provisions of appeal in case any person is aggrieved by an order of rejection of an application passed by the competent authority under sub-section (1) of Section 4 of the Act. Section 6 of the Act deals with the verification of caste certificates by a Scrutiny Committee.

.....

21. The scheme of the Act as noticed from the aforesaid provisions would reveal that it would be the exclusive jurisdiction of the Caste Scrutiny Committee to consider the application for a caste validity certificate as provided for in Section 6. Sub-section (2) of Section 7 clearly provides that the orders passed by the Scrutiny Committee under this Act shall be final and shall not be challenged before any authority or Court except the High Court under Article 226 of the Constitution of India. Thus, against any order passed by the Caste Scrutiny Committee, the remedy for a person aggrieved is only to approach the High Court by invoking its jurisdiction under Article 226 of the Constitution of India and in no other manner.

22. We need to observe that there ought not to be any confusion between the provision of sub-section (1) of Section 7 and what has

been provided in sub-section (2), for the reason that sub-section (1) deals with a situation that where, before or after the commencement of the Act, a person not belonging to any Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes or Special Backward Category has obtained a false 'Caste Certificate' (not a validity certificate) to the effect that either himself or his children belong to such Castes, the Scrutiny Committee in such an event and in relation to the caste certificate, may suo motu, or otherwise call for the record and enquire into the correctness of 'such certificate' (caste certificate) and if it is the opinion that the caste certificate was obtained fraudulently, it shall, by an order cancel and confiscate 'the certificate' by following such procedure as prescribed, after giving the person concerned an opportunity of being heard, and communicate the same to the concerned person and the concerned authority, if any.

23. When sub-section (1) of Section 7 uses the word caste certificate necessarily, the meaning of the same is required to be derived as per the definition of the caste certificate as contained in Section 2(a), which defines caste certificate to mean a certificate issued by any person, officer or authority other than the Competent Authority shall be invalid. The Caste Certificate issued by the Competent Authority shall be valid only subject to the verification and grant of validity certificate by the Scrutiny Committee.

24. Thus, a 'caste certificate' is certainly not a "caste validity certificate", as issuance of a caste validity certificate is an independent exercise to be undertaken by the Caste Scrutiny Committee by exercising its quasi-judicial powers. It is hence clear that the power conferred on the Caste Scrutiny Committee under sub-section (1) of Section 7 to enquire into any false caste certificate and form an opinion that a caste certificate was obtained fraudulently and to cancel and confiscate the certificate as ordered in sub-section (1) of Section 7, cannot be read to mean that the Caste Scrutiny Committee has the power to review its own orders/decisions granting caste validity certificate in case of a complaint being made that the caste validity certificate has been obtained fraudulently by any applicant seeking validity of the caste certificate.

25. It is quite clear from the reading of sub-section (2) that not only such orders passed by the Caste Scrutiny Committee under sub-section (1) but orders passed by the Scrutiny Committee under the provisions of "the Act", which would include a grant of a caste validity certificate, shall be final and cannot be challenged before any Authority or Court except the High Court under Article 226 of the Constitution of India. This clearly infers that once a decision is taken by the Caste Scrutiny Committee either under the provisions of sub-section (1) of Section 7 or under the provisions of Section 6, the Caste

Scrutiny Committee becomes functus officio, and such decision can only be assailed by approaching the High Court under Article 226 of the Constitution of India. There cannot be any other reading from the provisions of subsection (2) of Section 7.

26. Thus, from the scheme of the legislation it is clear that the Caste Scrutiny Committee would not have any jurisdiction to review/revisit its own orders and decisions granting caste validity certificates. This would also be clear from the reading of Section 9. It may also be observed that the legislature is conscious in making available limited powers of the Civil Court to the Competent Authority, Appellate Authority and the Scrutiny Committee, which are specifically enumerated in Section 9. The legislature has consciously avoided to confer the powers of a review as envisaged under Section 114, read with provisions of Order 47 of the Code of Civil Procedure. Once such provision conferring powers of a review are excluded in their application to the Caste Scrutiny Committee, there is no question of such powers being conferred by any implication under any circumstances.

27. Considering the provisions of sub-section (1) of Section 7, consciously, the legislature has not conferred powers on the authority issuing caste certificate to revisit the decision to issue caste certificate and cancel the same in view of fraud and misrepresentation. Such power is conferred on a higher authority, namely on the Caste Scrutiny Committee. The contention of the learned AGP that because the Caste Scrutiny Committee had issued validity certificate, it would have jurisdiction to revisit/review its decision when there is fraud and misrepresentation is totally untenable. As noted above, the legislature was fully conscious of the fact that a validity certificate could be obtained from the Caste Scrutiny Committee by playing fraud, however, consciously, the legislature has avoided to confer any power of review on the Caste Scrutiny Committee to review/revisit its own decision even in case of fraud, misrepresentation or suppression of material facts. In fact, such an interpretation would defeat the mandate of sub-section (2) of Section 7.

28. It would need no emphasis that the power to review any order in the nature of the order passed by the Scrutiny Committee would be the power required to be expressly conferred by the provisions of the legislation under which the Caste Scrutiny Committee functions.

29. If the contention, as urged on behalf of the respondent, that the Scrutiny Committee has jurisdiction to review its own decision/orders, although not expressly conferred by law, is accepted, the situation is just to be imagined, inasmuch as on any complaint alleging fraud and in respect of cases wherein the validity to a caste certificate has been continued by substantive orders passed by the

Caste Scrutiny Committee or under orders passed by the High Court or the Supreme Court, cannot be reopened by the Caste Scrutiny Committee on any complaint of fraud. This certainly is not the intention of the legislation to unsettle the concluded issues wherein the caste validity certificates are granted as per law and under orders passed by the higher Courts. It is for such reason the legislature has categorically avoided conferring any powers of review on the Caste Scrutiny Committee.

30. We are thus of the clear opinion that in the event a complaint being made in regard to any validity certificate granted by Caste Scrutiny Committee to be vitiated by fraud or illegality, the only course open to such a complainant or otherwise any person/authority is to approach the High Court by invoking the provisions of Article 226 of the Constitution and seek its interference in setting aside the validity certificate granted in favour of such person in view of the clear provisions of sub-section (2) of Section 7 of the Act. It is in such proceedings under Article 226 the Court would be required to apply its mind as to whether the allegations of fraud or any illegality are of such nature that the decision of the Caste Scrutiny Committee was vitiated and is required to be set aside. This would assume more significance as a grant of caste validity certificate confers substantive rights on the person holding such certificate, by virtue of which a right in rem is conferred on such person on the basis of such caste validity certificate.

31. It cannot be countenanced that a Caste Scrutiny Committee assumes jurisdiction to review its orders merely on a complaint filed by any person and upsets the earlier orders passed by it. Thus, the proposition, as canvassed by the learned AGP, would lead not only to an absurdity but the proposition totally untenable in law and not recognized by the legislation.

32. Our above observations also find support in *Akash Sanjay Gawali* (supra), wherein it was held that:

"6. The action of 2nd Respondent committee prima facie appears to be vindictive. It is also completely illegal. This committee has no suo motu power of review. In case after case, it seems to rely on a general principle that 'fraud vitiates everything' without realising the implications of this or how that fraud is to be detected, ascertained, proved and results based on such a finding. Perhaps this committee has no idea how difficult it is to actually prove fraud. A failure of proof is not fraud. That so-called 'fraud' must arise in the proceeding before it. It cannot be invoked like some mantra to confer on oneself a power of review over orders passed many years earlier, and which no one has called into question, about

which there is no lis or proceeding, and which have all attained finality. This is so basic a concept in law that we are surprised that the committee is so utterly oblivious to it. To be plain: no one ever assailed the petitioner's father's and uncles' validity certificates on any ground. The committee had no power to suo motu re-open those validity certificates and call them into question. The committee's orders are not purely ministerial to admit of the narrow exception to the general rule that there is no inherent power of review.

7. We find it surprising that we have to repeatedly state that this committee has no suo motu power of review. None is conferred by statute. None can be necessarily inferred. The impugned order is entirely without jurisdiction.

8. *This is also a case of the 2nd respondent committee inviting extreme censure for wholly overreaching this Court. Only because this Court in its order of 13 December 2018 in Writ Petition No. 10194 of 2018 entered a caveat that should the certificates of the uncles or father be recalled or set aside then the petitioner could not get any benefit, the 2nd respondent committee could not have seen this as an opportunity to go ahead and do something that was entirely outside its jurisdiction."*

(emphasis supplied)

33. It can be clearly noticed that it has been a consistent view in various decisions that the Caste Scrutiny Committee has no jurisdiction to review its own orders. There is no dispute whatsoever on this proposition and the Courts would be required to adhere to the mandate of what has been provided for in law i.e. sub-section (2) of Section 7 that the challenge to any decision taken under the Act by the Caste Scrutiny Committee can only be challenged before the High Court by Invoking the provisions of Article 226 of the Constitution of India. Furthermore, it is a settled position in law that when substantive provisions are clear, such jurisdiction cannot be conferred by any subordinate legislation or by any executive fiat.

34. As the Caste Scrutiny Committee has no powers to review, there is no question of any suo motu powers to be exercised by the Caste Scrutiny Committee and in any exercise of such suo motu jurisdiction would be invalid, illegal and contrary to the provisions of the Act."

34. Despite the above clear position as held by this Court, Mr. Gangal, learned special counsel for the State would submit that although the

provisions of the 2000 Act, do not expressly confer any power on the Caste Scrutiny Committee to review its own orders, nonetheless the Caste Scrutiny Committee has “inherent jurisdiction” to review its own orders. In support of such contention, Mr. Gangal has placed reliance on the decision of the Division Bench of this Court in **Smt. Sangita Sharad Kolse** (supra), which is a decision prior to the decision of the Division Bench in *Apoorva d/o. Vinay Nichale* (supra). After such decision, there are several decisions of this Court which has taken a consistent view that the statute (2000 Act) does not confer any powers of review on the Caste Scrutiny Committee and once such powers of review are not conferred, in such event, it cannot be held that the Caste Scrutiny Committee can exercise review jurisdiction on any other parameters, including on the issue of fraud. Thus, in our opinion, the decision of the Division Bench in **Smt. Sangita Sharad Kolse** (supra) would not assist Mr. Gangal.

35. Mr. Gangal has also placed reliance on the decision of the Supreme Court in **J. Chitra** (supra) to contend that the Caste Scrutiny Committee would have a review jurisdiction. We are afraid to accept such contention, for the reason that the Supreme Court in this judgment, has in fact, referred to the very genesis of the 2000 Act which emanates from the decision of the Supreme Court in case of **Kumari Madhuri Patil and**

*another vs. Addl. Commissioner, Tribal Development & ors.*¹². In paragraphs 8 and 10 of the said decision, the Supreme Court has categorically observed that “the order passed by the Committee shall be final and conclusive only subject to the proceedings under Article 226 of the Constitution”. The observations of the Supreme Court in paragraph 10 as relied by Mr. Gangal are not in regard to reopening of an inquiry or any power of review being conferred on the Caste Scrutiny Committee in relation to re-examining the “validity” of the past decisions of the Caste Scrutiny Committee, but the same are in relation to the reopening of inquiry into “tribe/caste certificates” if they are vitiated by fraud when they were issued without proper enquiry. The observations of the Supreme Court in paragraphs 8 and 10 need to be noted which read thus:-

“8. In Dayaram, this Court was of the view that the Scrutiny Committee is an administrative body which verifies the facts and investigates into claims of caste status. The orders of the Scrutiny Committee are open to challenge in proceedings under Article 226 of the Constitution of India. It was further held by this Court that permitting civil suits with provisions for appeals and further appeals would defeat the very scheme and will encourage the very evils which this Court wanted to eradicate. It was observed that the entire scheme in Madhuri Patil will only continue till the legislature concerned makes an appropriate legislation in regard to verification of claims for caste status as SC/ST. It was made clear that verification of caste certificates issued without prior inquiry would be verified by the Scrutiny Committees. Such of those caste certificates which were issued after due and proper inquiry need not to be verified by the Scrutiny Committees.

10. In the instant case, an inquiry was conducted by the District-Level Vigilance Committee which has upheld the community

12 (1994) 6 SCC 241

certificate in favour of the appellant. The decision of the District-Level Vigilance Committee in the year 1999 has not been challenged in any forum. The recognition of the community certificate issued in favour of the appellant by the District Vigilance Committee having become final, the State Level Scrutiny Committee did not have jurisdiction to reopen the matter and remand for fresh consideration by the District-Level Vigilance Committee. The guidelines issued by G. O. No. 108 dated 12-09-2007 do not permit the State Level Scrutiny Committee to reopen cases which have become final. The purpose of verification of caste certificates by Scrutiny Committees is to avoid false and bogus claims. Repeated inquiries for verification of caste certificates would be detrimental to the members of Scheduled Castes and Scheduled Tribes. Reopening of inquiry into caste certificates can be only in the case they are vitiated by fraud or when they were issued without proper inquiry.”

36. Thus, the judgment of the Supreme Court in *J. Chitra's* case is certainly not an authority which would hold that the Caste Scrutiny Committee has an inherent jurisdiction to exercise review powers and more particularly considering the observations that the re-opening of the enquiry can be only of the tribe/caste certificate and not Caste Validity Certificate as observed in paragraph 10 of the said decision.

37. Mr. Gangal's next contention is to the effect that the judgment of the Supreme Court in *Rushikesh Bharat Garud vs. The State of Maharashtra & Ors.* (supra) permitted the Caste Scrutiny Committee to reopen the cases of all these petitioners. It is difficult to agree with Mr. Gangal. Mr. Gangal however fairly submits that the case of *Rushikesh Bharat Garud* is itself an independent case, in which he has challenged the orders passed by the Caste Scrutiny Committee. Also it is conceded

that although his case is from same family it was not a case where review jurisdiction was being exercised by the Caste Scrutiny Committee. He would also fairly state that the independent writ petition filed by Rushikesh Bharat Garud questioning the decision as taken by the Caste Scrutiny Committee in pursuance of the directions of the Supreme Court in the said judgment would require independent adjudication. However, the emphasis of Mr. Gangal is on the observations of the Supreme Court as made in paragraphs 4 to 5. To appreciate the contentions of Mr. Gangal, it would be necessary to note the orders passed by the Supreme Court in the case of *Rushikesh Bharat Garud* which reads thus:-

“1. Feeling aggrieved and dissatisfied with the impugned judgment and order dated 29.06.2021 passed by the High Court of Judicature at Bombay in Writ Petition No. 11536 of 2021, by which the High Court has dismissed the said writ petition preferred by the appellant herein in which the appellant herein challenged the order passed by Scheduled Tribe Certificate Scrutiny Committee, Nashik (for short, ‘Scrutiny Committee’), invalidating the caste certificate issued to the appellant, the original writ petitioner has preferred the present appeal.

2. We have heard Mr. Uday B. Dube, learned Advocate appearing for the appellant and Mr. Sachin Patil, learned Advocate appearing for the State of Maharashtra and the Scrutiny Committee.

3. From the impugned judgment and order passed by the High Court, it appears that before the High Court the appellant heavily relied upon the validity certificates issued to his father Bharat Nagu Garud dated 14.01.2005 as well as to his cousins – Nilima Rohidas Garud dated 9.9.2005; Pravin Rohidas Garud dated 9.9.2005; Priyanka Rohidas Garud dated 20.09.2005; Rohidas Nago Garud dated 25.05.2011; and Ramdas Nagu Garud dated 07.12.2012. The aforesaid was also the case of the appellant herein before the Scrutiny Committee. However, the Scrutiny Committee while not accepting the above submission observed that when the appellant’s father's

caste claim was considered, 35 contradictory entries were not placed before the Scrutiny Committee. Neither were the original validity certificates relied upon by the appellant produced nor the genealogy. The Scrutiny Committee made identical observations regarding other validity certificates to the effect that the adverse entries were not placed on record. However, the fact remains that at the relevant time those caste certificates were not cancelled by the Scrutiny Committee.

4. Be that as it may. Now, it is the case on behalf of the appellant that the cases of the father of the appellant and his cousins have been re-opened and show cause notices have been issued to show cause why their caste certificates be not cancelled. Therefore, the validity of the caste certificates in favour of the father of the appellant and in favour of his cousins is at large before the Scrutiny Committee. Therefore, it will be appropriate if the cases of all, namely, father of the appellant, cousins of the appellant and the appellant herein be considered together, to avoid any conflicting orders.

5. In view of the above and without expressing anything on the validity of the caste certificate issued in favour of the appellant, we set aside the impugned judgment and order passed by the High Court and remand the matter to the Scrutiny Committee to consider the validity of the caste certificate issued in favour of the appellant afresh along with the cases of his father and his cousins, namely, Bharat Nagu Garud, Nilima Rohidas Garud, Pravin Rohidas Garud, Priyanka Rohidas Garud, Rohidas Nago Garud and Ramdas Nagu Garud. The Scrutiny Committee to pass fresh order/s in accordance with law and on its own merits and on the basis of the material available on record and/or that may be produced and pass a speaking order at the earliest, preferably within a period of three months from today.

6. At the cost of repetition, it is observed that this Court has not gone into the merits of the case at all and has not observed anything on the validity of the caste certificate issued in favour of the appellant.

7. The present appeal is accordingly allowed to the aforesaid extent. However, in the facts and circumstances of the case, there shall be no order as to costs.”

(emphasis supplied)

38. It is clear from the reading of paragraph 4 of the above orders of the Supreme Court, that as to what has been observed is only to note the case of the appellant therein (namely of Rushikesh Bharat Garud) that the

cases of the father of the appellant and his cousins had been re-opened and show cause notices were issued to show cause why their caste certificates be not cancelled. It is in such context, the Supreme Court observed that the validity of the caste certificates in favour of the father of the appellant and in favour of his cousins is at large before the Caste Scrutiny Committee and therefore, it would be appropriate if the cases of all, namely, father of the appellant, cousins of the appellant and the appellant (Rushikesh Bharat Garud) be considered together, to avoid any conflicting orders. It is on such observations as made in paragraph 4 of the said Judgment of the Supreme Court, in paragraph 5, the Supreme Court has proceeded to observe that without expressing anything on the validity of the caste certificate issued in favour of the appellant therein (Rushikesh Bharat Garud), the order of the High Court be set aside and the proceedings remanded to the Scrutiny Committee to consider the validity of the caste certificate issued in favour of the appellant (Rushikesh Bharat Garud) afresh, along with the cases of his father and his cousins, namely, Bharat Nagu Garud, Nilima Rohidas Garud, Pravin Rohidas Garud, Priyanka Rohidas Garud, Rohidas Nagu Garud and Ramdas Nagu Garud (the petitioners herein). In such context, it was further directed that the Scrutiny Committee would pass fresh orders in accordance with law and on its own merits and on the basis of the material available on record, that

may be produced and pass a speaking order at the earliest, preferably within a period of three months from the date of the said order. Further in paragraph 6 of said orders passed by the Supreme Court, at the cost of repetition it has been observed that the Court has not gone into the merits of the case at all and has not observed anything on the validity of the caste certificate issued in favour of the appellant therein.

39. Considering such categorical observations as made by the Supreme Court in paragraphs 4, 5 and 6 in *Rushikesh Bharat Garud's* case, it is difficult to accept Mr. Gangal's submission that the Supreme Court has permitted the Caste Scrutiny Committee to exercise powers of review in the case of the petitioners herein because they belong to Garud family. To read the observations of the Supreme Court in paragraphs 4, 5 and 6 in the manner as suggested by MR. Gangal, in our opinion is not the correct reading and understanding of the orders passed by the Supreme Court. Also to accept Mr. Gangal's submission that such observations of the Supreme Court amounts to the Supreme Court recognizing powers of review being vested with the Caste Scrutiny Committee would be little too far-fetched.

40. Mr. Gangal has next drawn our attention to further orders passed by the Supreme Court on 25 February, 2022 on Miscellaneous Application

No. 339 of 2022 in *Rushikesh Bharat Garud's* case. It would be necessary to note the said order which reads thus:-

“

ORDER

Having heard the learned counsel appearing on behalf of the respective parties, we extend the time by further period of six weeks to complete the proceedings by the appropriate Authority. However, it is made clear that the applicant shall not raise objection with respect to jurisdiction and the time is extended at the instance of the applicant so that sufficient opportunity is given to the applicant to submit the case on merits.

With this, the present application stands disposed of.”

41. Reading of the above order would also show that the same is passed only in *Rushikesh Bharat Garud's* case, these orders in no manner can be construed, so as to be made applicable to the cases of the petitioners herein, and to have a consequence, that the petitioners were precluded from raising any objection as may be available to them in law, to question the jurisdiction of the Caste Scrutiny Committee, to exercise review powers. We, therefore, reject Mr. Gangal's contention relying on the further orders dated 25 February, 2022 passed by the Supreme Court in case of *Rushikesh Bharat Garud*. This apart, there is something significant which can be seen from the cumulative reading of paragraph 5 of the Supreme Court's order in *Rushikesh Bharat Garud's* case in as much as paragraph 5 refers to the case of Nilima Rohidas Garud, who is one of the petitioners in the present batch of petitions. In Nilima Rohidas Garud's

case, the Supreme Court having made observations in paragraph 5 in *Rushikesh Bharat Garud's* case, passed an independent order on 20 May, 2022 in the proceedings of Miscellaneous Application No. 888 of 2022 in SLP(C) No. 8825 of 2022, wherein when Nilima sought to approach the Supreme Court in such proceedings, the Supreme Court in such order observed that Nilima Rohidas Garud had a new cause of action and therefore, the said application cannot be entertained. However, what is significant is the observation of the Supreme Court in paragraph 2 of the said order namely, *'as and when the fresh proceedings are initiated challenging the subsequent order, the same be considered in accordance with law and on its own merits and on which all contentions and/or defences, which may be available to the respective parties, are kept open to be considered by the High Court and/or appropriate forum before whom the proceedings were initiated.'* The said order is required to be noted which reads thus:-

“

ORDER

The subsequent order passed by the Appropriate Authority is a new cause of action. Therefore, the present application is not entertained.

As and when the fresh proceedings are initiated challenging the subsequent order, the same be considered in accordance with law and on its own merits. All the contentions and/or defences, which may be available to the respective parties are kept open to be considered by the High Court and/or appropriate forum before whom the proceedings are initiated.

With this, Miscellaneous Application stands disposed of.”

42. The case of Nilima Rohidas Garud is before us in the present proceedings (Writ Petition No. 9075 of 2022). In our opinion, all contentions of Mr. Gangal relying on *Rushikesh Bharat Garud's* case are put to rest, considering the above orders passed by the Supreme Court in Nilima Rohidas Garud's case, which would also indicate that it was never intended in the observations as made in paragraphs 4 and 5 in *Rushikesh Bharat Garud's* case, that the Caste Scrutiny Committee is permitted to exercise review powers in the case of the petitioners, to reopen the validity certificates, already granted many years back.

43. In view of the above discussion, we are quite clear that a consistent view has been taken in several decisions of this Court that the Caste Scrutiny Committee is not conferred with any jurisdiction to review its own decisions. In fact, the very genesis of the Caste Scrutiny Committee culminating into the 2000 legislation is the decision of the Supreme Court in the case of *Kumari Madhuri Patil & Anr. (supra)*, which has categorically held that the orders passed by the Caste Scrutiny Committee shall only be subject to the jurisdiction of the High Court under Article 226 of the Constitution. Thus, if the contention as urged on behalf of the

State is accepted, it would amount to, firstly nullifying the said dictum of the Supreme Court that the orders passed by the Caste Scrutiny Committee shall be only subject to the jurisdiction of the High Court under Article 226 of the Constitution; and secondly, an inroad to the finality of the orders of the Caste Scrutiny Committee, not provided by the 2000 Act would be required to be recognized.

44. This apart, in our opinion, if in a situation that a Caste Scrutiny Committee has granted validity to a caste certificate and the same is being questioned later on (in present cases after long lapse of time) it can only be on a prima facie satisfaction of the High Court in any acceptable and legitimate proceedings under Article 226 of the Constitution that such a plea needs to be accepted for reopening/re-examination of the issue by the Caste Scrutiny Committee, and not otherwise. There cannot be a free hand or a licence to the Caste Scrutiny Committee to reopen concluded cases of validity being conferred by it by its earlier orders to be revisited or re-examined on a complaint or otherwise and review its orders.

45. Also such contentions as urged on behalf of the State that the Caste Scrutiny Committee has inherent powers to review its own orders would lead to devastating consequences, as rightly urged on behalf of the

petitioners. Such consequence would be: -

(i) That the Caste Scrutiny Committee would be permitted to form its subjective opinion on a decision taken by a co-ordinate Committee irrespective of the period when such decision was taken either suo motu or otherwise;

(ii) A pure subjective opinion of the Caste Scrutiny Committee would be as to what according to it would be a case of misrepresentation and fraud, so as to reopen concluded case of an earlier validity being granted;

(iii) Such reopening of the validity already granted would be without any restriction as to limitation (as in the present case), creating a situation to unsettle concluded issues;

(iv) Even to make allegations of a fraud on a concluded issued under the general law would be covered by a prescribed period limitation. Even if validity has been fraudulently obtained, it cannot be that on an allegation of fraud in a given case, issues can be reopened after such enormous delay of 15 to 20 years although it may be a consideration to decide future cases.

46. Thus in our opinion, the Caste Scrutiny Committee, being a

statutory body exercising quasi adjudicatory functions, would not have any jurisdiction to suo motu verify the past records and initiate an action to reopen past decision and invalidate the caste validity certificates already granted. If an inherent power of review is to be read in the provisions of the 2000 Act, it would lead to a monumental uncertainty and absurdity in the functioning of the Caste Scrutiny Committee, as it can be at the *ipse dixit* of the Caste Scrutiny Committee to reopen concluded cases. This would lead to patent arbitrariness. For such reasons, it is not possible to come to a conclusion that any inherent power of review is available with the Caste Scrutiny Committee.

47. This apart as noted above, in the decisions as rendered by this Court, it has been consistently held that there is no jurisdiction as conferred by the 2000 Act on the Caste Scrutiny Committee to review its own order either on an application or suo motu. The nature of adjudication as undertaken by the Caste Scrutiny Committee is certainly quasi-judicial in nature where admittedly there is an enquiry after hearing the parties (including hearing a third party/complainant) and after considering the vigilance report and the documentary and oral evidence, a decision is required to be taken by the Caste Scrutiny Committee. In the absence of a Caste Scrutiny Committee, such powers to make any such

declaration to the caste certificate, could only be wielded by the Civil Court. Thus, certainly a caste scrutiny committee is exercising such vital jurisdiction, which otherwise would have been exercised by a civil court. Even from such perspective, it cannot be held that any inherent powers of review are conferred on the Caste Scrutiny Committee. Even otherwise considering the nature of functions of the Caste Scrutiny Committee, the legislature itself has avoided to confer any review powers which could have been conferred by the legislature, as observed by the Division Bench of this Court in *Rakesh Bhimashankar Umbarje (supra)*. Even when a review jurisdiction is conferred by law on Courts, it is circumscribed by strict rules, namely, adjudicating any review proceedings on the touchstone of the principles as contained in Code of Civil Procedure and as also the applicability of the law of limitation . It is thus difficult to accept the case as urged on behalf of the State that the Caste Scrutiny Committee would be a body which is beyond the applicability of any restriction and rules, which are necessarily applicable to bodies conferred with review jurisdiction.

48. For the above reasons, we are not persuaded to accept any of the contentions as urged by Mr. Gangal so as to read any review jurisdiction being conferred on the Caste Scrutiny Committee, to review the past

decisions, when the decision of the Caste Scrutiny Committee either rejecting the validity or granting validity is only subject to jurisdiction of this Court under Article 226 of the Constitution.

49. In the light of the above discussions, the petitions need to succeed. Hence, the following order:

ORDER

(i) The impugned decision(s) of the Caste Scrutiny Committee in each of these writ petitions recalling the earlier decision granting validity of the tribe/caste certificate to the petitioners and invalidating the caste certificate are quashed and set aside.

(ii) Consequentially, the original orders granting caste validity certificate in favour of each of the petitioners stand restored, the benefit of which the petitioner would be entitled.

(iii) Rule is made absolute in the above terms.

(iv) No costs.

50. In view of the above decision, we are not inclined to adjudicate on any contentions raised by the applicants/intervenors in their Intervention

Applications. We keep open all their contentions to be asserted in the appropriate proceedings. These Interim Applications accordingly stand disposed of.

51. Judgment on the second group of petitions which are:-

- (i) Writ Petition No. 8513 of 2022 (Umakant Balbhim Sarjerao & Ors. vs. State of Maharashtra & Ors.),
- (ii) Writ Petition No. 13403 of 2023 (Hemant Kashinath Gavali vs. State of Maharashtra),
- (iii) Writ Petition No. 13292 of 2022 (Kishor Tryambak Bhamare Vs. State of Maharashtra & Ors.),
- (iv) Writ Petition No. 13645 of 2023 (Rajeshwar Wamanrao Aher vs. State of Maharashtra & Anr.).

52. These petitions raise similar issues as decided by us in our above decision namely that the Caste Scrutiny Committee would not wield any review jurisdiction. The only difference being that the challenge of the present proceedings is to show-cause-notices issued to the petitioners calling upon the petitioners to show cause as to why in exercise of its review jurisdiction, the decision as taken in each of the these cases granting 'caste validity certificates' in favour of the petitioners be not recalled.

53. For completeness, we may refer to the relevant facts in each of these petitions.

(i) **Writ Petition No. 8513 of 2022**
(Umakant Balbhim Sarjerao & Ors. vs. State of Maharashtra & Ors.)

54. This petition has been filed on behalf of petitioners who were issued Caste Certificates as belonging to Thakar caste (Scheduled Tribes). Such Caste Certificates were subject matter of proceedings filed by the petitioners before the Caste Scrutiny Committee praying for their validation. The Caste Scrutiny Committee passed final orders granting validation of the caste certificate to the petitioners. The relevant details of the caste certificate and validity certificate as granted to the petitioners and which are now sought to be reopened by show cause notice as issued to the petitioners can be set out in a tabular form as under:

Name of the petitioner	Date of Caste Certificate	Date of Validity Certificate	Date of SCN for Review
Umakant Balbhim Sarjerao	25.01.2001	06.06.2004	10.04.2019
Rohidas Jalindar Sarjerao	06.11.2000	20.11.2004	10.04.2019
Jagruti Nandkumar Sarjerao	31.05.2004	10.08.2005	10.04.2019
Pratap Dattatray Sarjerao	07.08.2003	26.09.2005	10.04.2019
Suvarna Dattatray Sarjerao	03.11.2000	10.02.2006	10.04.2019

(ii) **Writ Petition No. 13403 of 2023**
(Hemant Kashinath Gavali v. State of Maharashtra & Ors.)

55. The petitioner in this petition belongs to Mahadeo Koli Scheduled

Tribe. He was granted tribe/caste certificate dated 22nd October 2001 by Executive Magistrate, Malegaon, Nashik. He moved the Caste Scrutiny Committee seeking validity of his tribe/caste certificate. After a vigilance enquiry and considering the evidence on record, the Caste Scrutiny Committee issued a caste validity certificate dated 2nd November 2005 to the Petitioner belonging to Mahadeo Koli Scheduled Tribe. Such validity certificate had remained valid and in operation for almost about 18 years till the time the validity so conferred by the caste scrutiny committee was sought to be questioned by respondent nos. 3 and 4 who filed a complaint on 15th February 2023 and 20th February 2023 against the petitioner before the Caste Scrutiny Committee. Respondent nos.3 and 4 alleged that the Caste Scrutiny Committee needs to invalidate the tribe claim of his nephew and niece, Parth Gavali and Shruti Gavali, and on the basis of whose caste validity certificates, the petitioner had obtained a Petroleum Retail Outlet Dealership on 13th February 2017. On such reasons, the complainant requested the Caste Scrutiny Committee to cancel the petitioner's caste validity certificate. On such complaint being received, the Caste Scrutiny Committee orally intimated to the petitioner of issuance of a show cause notice, and called upon the petitioner to remain present for a personal hearing on 9th March 2023. The Petitioner accordingly remained present for a personal hearing along with his

Advocate and pointed out that no show cause notice was received by him from the office of the Caste Scrutiny Committee. The Caste Scrutiny Committee hence handed over the show cause notice dated 9th November 2022 to the petitioner at the time of hearing and directed the Petitioner to submit his say. The petitioner also requested the entire file of petitioner granting validity certificate and next hearing was scheduled on 29th March 2023. It is in these circumstances, the petitioner has approached this Court by the present proceedings *inter alia* contending that the Caste Scrutiny Committee has no jurisdiction to issue such a show-cause-notice, so as to exercise a review jurisdiction and reopen the orders granting validity to the petitioner's caste certificate on 2nd November 2005.

(iii) Writ Petition No. 13292 of 2022
(Kishor Tryambak Bhamare v. State of Maharashtra & Ors.)

56. The petitioner belongs to Thakur Scheduled Tribes, who was issued a caste certificate dated 28th August 2000 by the competent authority. He moved the Caste Scrutiny Committee for obtaining validity to his tribe/caste certificate. The Caste Scrutiny Committee considering the petitioner's case, issued a caste validity certificate dated 15th April 2005 to the Petitioner, as belonging to Thakur Scheduled Tribe. The Caste Scrutiny Committee despite grant of caste validity certificate to the

petitioner, had passed orders to invalidate the tribe certificate of petitioner's nephew, namely, Akshay Dhananjay Bhamare and niece Kum. Manasi Dhananjay Bhamare and on such premise, issued to the petitioner the impugned show cause notice dated 3rd April 2019 alleging that grant of caste validity certificate to the petitioner was based upon suppression of facts.

57. It is seen from the record that Akshay Dhananjay Bhamre and Ms. Mansi Dhananjay Bhamre have approached this Court in the proceedings of Writ Petition No.5111 of 2019, in which the Division Bench of this Court by an order dated 25th July 2019 had directed the Caste Scrutiny Committee to provide a certificate of validity for his immediate educational needs. It may also be noted that in such orders, the Court had referred to a show cause notice which was issued to the petitioner, who was a relative of Akshay Bhamre and Mansi Bhamre from the paternal side. The petitioner filed a detailed reply dated 28th May 2019 to the said show cause notice, contending that the Caste Scrutiny Committee has no power to review its own order. However, the Caste Scrutiny Committee issued a second show cause notice dated 22nd September 2022, without considering the Petitioner's reply dated 28th May 2019 to the first show cause notice. The petitioner again filed a detailed reply dated 27th

September 2022 urging that the Caste Scrutiny Committee had no jurisdiction and/or power to review its earlier order of granting caste validity certificate, which was issued after following the due process of law. It is on such premise, the petitioner has approached this Court assailing the show cause notice inter alia contending that the Caste Scrutiny Committee had no authority to issue such show cause notice, so as to invalidate the tribe/caste certificate already granted to the petitioner by its prior decision.

(iv) Writ Petition No. 13645 of 2023
(Rajeshwar Wamanrao Aher vs. State of Maharashtra & Anr.)

58. This petition assails the legality and validity of the show cause notice dated 13th October 2023 issued by the Caste Scrutiny Committee. The petitioner belongs to the Koli Mahadeo Scheduled Tribe. The caste certificate dated 28th July 2003 was issued by the Sub-Divisional Officer, Nashik. The petitioner had instituted proceedings before the Caste Scrutiny Committee praying for validation of the caste certificate issued to the petitioner. In such proceedings, the Caste Scrutiny Committee referred the petitioner's claim to its Vigilance Cell for conducting home and school inquiry which submitted its Vigilance Report dated 22nd August 2003, justifying the petitioner's claim. Vigilance Cell Report was forwarded to the petitioner and the petitioner was granted an opportunity

of a personal hearing. Being satisfied with the documentary evidence, the Caste Scrutiny Committee passed an order dated 27th May 2005 granting validity to the tribe/caste certificate issued to the petitioner. The Caste Scrutiny Committee issued a caste validity certificate dated 14th June 2005 to the petitioner validating his caste certificate as belonging to Koli Mahadeo Scheduled Tribe. Also after following due procedure, the Scrutiny Committee validated tribe claims of the petitioner's cousin brother (Prashant) and daughter (Shweta) who were issued certificates of Validity dated 9th March, 2009 and 18th June 2018 respectively. It is the case of the petitioner that despite there being three validity certificates from paternal side, the Scrutiny Committee by order dated 10th July 2023 invalidated the tribe claim of petitioner's daughter Srushti Rajeshwar Aher and niece Prachi Prashant Aher. It is contended that being aggrieved by such orders passed by the Caste Scrutiny Committee, they have filed Writ Petition No. 12474 of 2023 which are pending. It is contended by the petitioner that on the basis of these orders, after a lapse of 18 years, the Caste Scrutiny Committee has issued the impugned show cause notice dated 13th October 2023 to the petitioner seeking to review/recall its orders granting validity to the caste certificate issued to the Petitioner in the year 2005. It is on such premise, the petitioner has approached this Court assailing the jurisdiction of the caste scrutiny committee to reopen

the petitioners concluded case after 18 years of the validity being conferred to the tribe/caste certificate as granted to the petitioner.

59. Thus, the issues of law as involved in these second group of petitions are not different from what has been decided by us in the first group of petitions in which we have categorically held that the Caste Scrutiny Committee has no jurisdiction, much less inherent jurisdiction to review its own decisions, as any decision as rendered by the Caste Scrutiny Committee, is subject to the jurisdiction of this Court under Article 226 of the Constitution including issue on issues of any allegation of fraud.

60. We may also observe that in a given case any issue of fraud which is raised whether is a genuine issue or not, so as to direct reopening of the said case would be the exclusive jurisdiction of the High Court under Article 226 of the Constitution and it cannot be an *ipse dixit* of the committee either suo motu or on a complaint to exercise any review powers so as to reopen concluded cases unless otherwise directed by the high Court.

61. Mr. Gangal had advanced common submissions even in the second group of petitions, so we do not repeat the contentions as we have referred to them *in extenso* in the foregoing paragraphs in deciding the first group of petitions.

62. It is thus clear that this batch of petitions are covered by our decision as rendered in the forgoing paragraphs, on the first group of petitions in Bharat Nagu Garud's case (supra) and other petitions. We, accordingly, allow these petitions in terms of the following order:-

ORDER

- (i) The impugned decision of the Caste Scrutiny Committee recalling the earlier decision granting validity of the caste certificate to the petitioners and invalidating the caste certificate are quashed and set aside.
- (ii) Consequentially, the original orders granting caste validity certificate in favour of each of the petitioners stand restored, the benefit of which the petitioner would be entitled. Ordered accordingly.
- (iii) Rule is made absolute in the above terms. No costs.

(JITENDRA JAIN, J.)

(G. S. KULKARNI , J.)