



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.271 OF 2022

1. Sudarshan S/o Sambhaji Ainwad
2. Sunilkumar S/o Sambhaji Ainwad ... **PETITIONERS**

VERSUS

1. The State of Maharashtra,
through Secretary to Tribal
Development Department
Mantralaya, Mumbai
2. The Scheduled Tribe Certificate
Verification Committee, Aurangabad
through its Deputy Director [R],
Dist. Aurangabad
3. The Scheduled Tribe Certificate
Verification Committee, Kinwat
at Aurangabad
through its Deputy Director [R]
4. The Directorate of Technical Education
Mahanagar Palika Marg, Mumbai-1
5. The Director,
Walchand College of Engineering,
Vishrambag Sangli Dist. Sangli
6. The Principal,
Maharashtra Institute of Technology
of Pune 124, Paud Road, Kothrud,
Pune Dist. Pune ... **RESPONDENTS**

...

Advocate for petitioners : Mr. Sunil M. Vibhute
A.G.P for Respondent : Mr. P.S. Patil

...

**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

**Reserved on : 23.07.2024
Pronounced on : 02.08.2024**

ORDER (PER : MANGESH S. PATIL, J.) :

The petitioners are challenging the judgment and order of the respondent No.2 - Scheduled Tribe Certificate Scrutiny Committee (herein after, the Scrutiny Committee) refusing to validate their 'Mannervarlu' scheduled tribe certificates and directing those to be confiscated and cancelled.

2. Learned advocate for the petitioners would vehemently submit that there are several favourable entries. No contrary record could be traced and still genuine claims have been discarded simply by referring to couple of entries which the Committee has said to be contrary entries. Even the Committee has resorted to drawing of inference based on perceptions regarding some manipulation of the school record. Isolated contrary entries of post independence period could have been discarded or overlooked in the light of voluminous favourable record.

3. Learned advocate would further submit that the Committee has even entertained a doubt about the petitioners' claims for not having disclosed invalidation of one Ramanna Bhumanna Ainwad. He would submit that even there is no substance in the observation of the Committee that intentionally false genealogy was submitted so as to

conceal Ramanna Bhumanna Ainwad. He would further submit that the petitioners, in reply to the vigilance cell report, had expressly denied having any blood relationship with Ramanna Bhumanna Ainwad. The Committee has proceeded on conjectures and surmises. He would submit that there are validities in the family of near blood relatives. Though the Committee has now observed that they had obtained the validities by resorting to fraud, till the time these validity certificates are not recalled, the petitioners cannot be deprived of having certificates of validity, may be, conditionally. They are ready to run the risk of facing the consequences contemplated in the matter of **Shweta Balaji Isankar Vs. State of Maharashtra and Ors.;WP No.6320/2017.**

4. Learned AGP opposes the petition. He would submit that there is material to substantiate the inference of the Committee that Ramanna Bhumanna Ainwad is related to petitioners by blood. His invalidation was not disclosed. It would amount to concealment of material facts and no fault can be found with the Committee's stand that this was done intentionally.

5. The learned AGP would precisely advert our attention to the genealogy furnished in the matter of Ramanna Bhumanna Ainwad. He would submit that since several contrary entries could be revealed in respect of the members of the family of Ramanna Bhumanna Ainwad the petitioners must have designedly denied of having any relationship with that family.

6. Learned AGP would further submit that even the validity holders being relied upon by the petitioners were not issued with certificates of validity by following due process of law and following the decision in the matter of **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and Ors.;2023 SCC Online SC 326**, benefit cannot be extended to the petitioners.

7. We have considered the rival submissions and perused the papers. At the out set, it is necessary to observe that we have been consistently holding that though the validities in the family could be taken benefit of the other blood relatives, the invalidities in the family would not bind the other blood relatives for the reason that they can possibly lead some additional evidence and are able to convince the Committee and discharge the burden caste on them under Section 8 of the Maharashtra Act XXIII of 2001. If that be so, the stand of the Committee to the extent it observes that non-disclosure of invalidity of Ramanna Bhumanna Ainwad would be sufficient to discard the petitioners' claim, would not be sustainable.

8. Needless to state that as far as the element of suppression as one of the circumstances for concluding whether it is a matter of fraud, by not disclosing his invalidation, is a matter which we are not dealing with. Even if the Committee, for the reasons mentioned in the impugned judgment and order, has decided to undertake a review on the premise that the validity holders had perpetrated fraud while obtaining the

certificates of validity, in our considered view, it is better left for the Committee to take such inference to the logical end by undertaking a detail inquiry. Since the validity holders are not parties before us, we do not intend to make any comment which could have some bearing on that inquiry.

8. The fact remains that without raising any dispute about the relationship between the petitioners and the validity holders Ramesh Chinappa Ainwad, Gajanan Chinappa Ainwad and Nagesh Chinappa Ainwad, the Committee has refused to extend the benefit of these validities to the petitioners only on the ground of alleged fraud.

9. Original file of the committee of Ramesh Chinappa Ainwad has been made available to us. The Committee had undertaken inquiry and for a reasoned order, had held him entitled to have a certificate of validity. Sufficiency or otherwise of the reasons is not a parameter laid down in the matter of **Maharashtra Adiwasi Thakur Jamat** (supra). There was an inquiry and a reasoned order holding him entitled to have certificate of validity. It was also preceded by a vigilance inquiry as contemplated in Rule 12. If that be so, it cannot be said that Ramesh was not issued certificate of validity by following due process of law.

10. In the light of above, keeping aside the issue regarding alleged fraud to be decided independently, the petitioners deserve to be granted certificate of validities.

11. The writ petition is allowed partly. The impugned judgment

and order is quashed and set aside. The respondent/Scrutiny Committee shall immediately issue certificates of validity to the petitioners of 'Mannervarlu' Scheduled Tribe, which shall be subject to the decision to be taken by the committee in the reopened matters.

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

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

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