



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.227 OF 2022

Tejaswini d/o. Subhash Suradkar ... PETITIONER

VERSUS

1. State of Maharashtra
through Principal Secretary,
Tribal Development Department
Mantralaya, Mumbai.
 2. Scheduled Tribe Certificate
Scrutiny Committee, Aurangabad
District Aurangabad
through its Member Secretary
 3. Government Polytechnic College
Aurangabad
through its Principal
- ... RESPONDENTS

...

AND

WRIT PETITION NO.14582 OF 2021

Ashitosh Anil Suradkar ... PETITIONER

VERSUS

1. State Common Entrance Test Cell,
Maharashtra, Mumbai
8th floor, New Excelsior,
A.K. Nayak Marg, Fort, Mumbai
through its Commissioner and
Competent Authority
 2. Scheduled Tribe Certificate
Scrutiny Committee, Aurangabad
District Aurangabad
through its Member Secretary
- ... RESPONDENTS

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Advocate for petitioner/s : Mr. Sagar S. Phatale
AGP for Respondent/State : Mrs. P.J. Bharad

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

DATE : 07.08.2024

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

By these two separate writ petitions under Article 226 of the Constitution of India, the petitioner/s are challenging the selfsame common order passed by respondent - Scrutiny Committee in a proceeding under Section 7 of the Maharashtra Act XXIII of 2001, refusing to validate their 'Thakur' scheduled tribe certificates.

2. At the joint request of the parties, considering the urgency being pointed out, both the matters are heard finally at the stage of admission.

3. The learned advocate for the petitioners would submit that the petitioners are not the first family members seeking validation of tribe certificates. Cousin brother of petitioner - Ashitosh who is the real paternal uncle of petitioner - Tejaswini possesses a certificate of validity issued by the Committee in the year 2005, it was issued by following due process of law. A vigilance inquiry was conducted and by a reasoned order she was held entitled to have a certificate of validity. The learned advocate would submit that independent of the enormous favourable record being relied upon by the petitioners, the petitioners ought to have been extended benefit of having certificates of validity similar to the one issued to Pritesh Shalikram Suradkar.

4. Learned advocate would submit that though the Committee has now made an observation disclosing its intention to undertake a process for recalling the validity possessed by Pritesh and other validity holders on the ground that they had obtained certificates of validity by suppressing contrary record, till the time these certificates of validities are not recalled, the petitioners cannot be deprived of the benefit. The petitioners 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**, and may be issued with certificates of validity, subject to the final outcome of the matters to be reopened by the Committee.

5. The learned advocate for the petitioners would, independently, submit that the Committee has referred to some contrary school record of some individuals. However, the petitioners have been specifically denying having any relationship with two of them, the rest of the contrary records, wherein, the blood relatives have been described as 'Maratha' and even in one school record of Santosh word 'Maratha' has been scratched and 'Thakur' has been written below it, that would not outweigh the enormous favourable record, wherein, the blood relatives have been expressly described as 'Thakur'.

6. Per contra, the learned AGP supports the order and would submit that no fault can be found with the observation of the Committee in not extending the benefit of validity in the family, since those were

obtained by practising fraud. Fraud vitiates every solemn act. No procedure was followed while granting certificate of validity to Pritesh. He would further submit that contrary record could be traced out which was deliberately concealed by Pritesh while obtaining the certificate of validity.

7. Admittedly, Pritesh Shalikram Suradkar is the first validity holder in the family. His original file is made available to us by the Committee. We could go through it minutely. We could see that he was issued with certificate of validity by following due process of law. A vigilance inquiry was conducted. Even some contrary record was traced and for a reasoned order, he was held entitled to have a certificate of validity. The parameters laid down in paragraph No.22 of **the Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and Ors.;2023 SCC Online SC 326**, stand duly complied with. Consequently, the petitioners ought to be extended the benefit of validity possessed by Pritesh.

8. Though the Committee has now been entertaining a doubt and is of the view that he had practised fraud while obtaining the certificate of validity, since he is not before us, we cannot make any comment on the observations of the Committee in that respect as the observations potentially could have a bearing on the matter of the validity holder which the Committee has decided to reopen.

9. The fact remains that Pritesh having been issued with

certificate of validity by following due process of law and by a reasoned order, and when there is no dispute about he being related to these petitioners by blood, they cannot be denied the benefit of certificates of validity, *albeit*, conditionally.

10. The writ petitions are partly allowed. The impugned order is quashed and set aside. The Committee shall immediately issue certificates of validity to both the petitioners of 'Thakur' scheduled tribe. Their validity would be subject to the final outcome of the matters of the validity holders to be reopened by the Committee.

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

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

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