



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

931 WRIT PETITION NO. 654 OF 2024

SUPRIYA PRALHAD BHUTTE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND OTHERS

...
Advocate for the Petitioner : Mr. M.L. Paithane h/f. Golegaonkar Madhur A.
AGP for Respondents/State : Mr. S.B. Narwade
...

CORAM : RAVINDRA V. GHUGE &
Y.G. KHOBRAGADE, JJ.
DATE : 17th January, 2024

PC. :-

1. The Petitioner's claim of belonging to 'Mannervarlu' Scheduled Tribe has been rejected by the impugned order dated 05.12.2023. The Petitioner is in employment, working as a Clerk cum Typist with the Respondent Nos.4 and 5.

2. We have considered the submissions of the learned advocates for the respective sides and have perused the judgment delivered by the Hon'ble Supreme Court in **Mah. Adiwasi Thakur Jamat Swarakshan Samiti V/s. State of Maharashtra & Ors.**; AIR 2023 SUPREME COURT 1657, especially paragraph nos.22, 23 and 24 which read as under:

“22. We can also contemplate one more scenario which is found in many cases. These are the cases where the applicant relies upon

caste validity certificates issued to his blood relatives. Obviously, such a validity certificate has to be issued either by the Scrutiny Committee constituted in terms of the directions issued in Kumari Madhuri Patil's case (AIR 1995 SC 94) or constituted under the Rules framed under the 2000 Act. In such a case, firstly, the Scrutiny Committee must ascertain whether the certificate is genuine. Secondly, the Scrutiny Committee will have to decide whether the applicant has established that the person to whom the validity certificate relied upon by him has been issued is his blood relative. For that purpose, the applicant must establish his precise and exact relationship with the person to whom the validity certificate has been granted. Moreover, an enquiry will have to be made by the Scrutiny Committee whether the validity certificate has been granted to the blood relative of the applicant by the concerned Scrutiny Committee after holding due enquiry and following due procedure. Therefore, if the Scrutiny Committee has issued a validity certificate contemplated in terms of the decision in the case of Kumari Madhuri Patil, the examination will be whether the enquiry contemplated by the said decision has been held. If the certificate relied upon is issued after coming into force of the 2000 Act, the Scrutiny Committee will have to ascertain whether the concerned Scrutiny Committee had followed the procedure laid down therein as well as in the ST Rules or the SC Rules, as the case may be. For this verification, the Scrutiny Committee can exercise powers conferred on it by Section 9(d) by requisitioning the record of the concerned Caste Scrutiny Committee, which has issued the validity certificate to the blood relative of the applicant. If the record has been destroyed, the Scrutiny Committee can ascertain whether a due enquiry has been held on the basis of the decision of the Caste Scrutiny Committee by which caste validity has been granted to the blood relative of the applicant. If it is established that the validity certificate has been granted without holding a proper inquiry or without recording reasons, obviously, the caste scrutiny committee cannot validate the caste certificate only on the basis of such validity certificate of the blood relative.

23. *In a given case, the Scrutiny Committee may be satisfied that the caste validity certificate relied upon by the applicant has been issued after making a lawful enquiry. But if the Scrutiny Committee is of the view that the applicant has not clearly*

established that the person to whom caste validity certificate produced on record has been granted is his blood relative, in terms of sub- rule (2) of Rule 12 of the ST Rules, the Caste Scrutiny Committee will have to refer the case for conducting an enquiry through Vigilance Cell. In such a case, the Vigilance Cell can be directed by the Scrutiny Committee to conduct an enquiry limited to the relationship claimed by the applicant with the person in whose favour the caste validity certificate has been issued. If, on the basis of the report of the Vigilance Cell, the Scrutiny Committee is satisfied that the person in whose favour caste validity certificate has been issued is a blood relative of the applicant and lawful enquiry has been conducted before issuing the validity certificate, the Scrutiny Committee will have to issue validity certificate even if the applicant does not satisfy the affinity test. For example, if it is established that the father or grandfather of the applicant has been given a caste validity certificate after holding a lawful enquiry in accordance with law, the Caste Scrutiny Committee cannot hold that the grandfather or father of the applicant, as the case may be, belongs to Scheduled Tribe but the applicant does not belong to Scheduled Tribe. Only if the relationship as pleaded by the applicant is not established, the other evidence produced by the applicant and the result of the affinity test can be taken into consideration by the Scrutiny Committee.

24. *As provided in sub-rule (7) of Rule 12 of the ST Rules, the Vigilance Cell's report is not conclusive. If on the basis of the report of the Vigilance Cell and other evidence on record, the Scrutiny Committee comes to a conclusion that the caste claim is genuine, a caste validity certificate can be issued. Only on the ground that the report of vigilance cell is in favour of the applicant, validity certificate cannot be mechanically granted without application of mind. If the report of the Vigilance Cell is against the applicant, his caste claim cannot be rejected only on the basis of the report of the Vigilance Cell without providing a copy of the report to the applicant and without giving him an opportunity of being heard on the report. After giving an opportunity to the applicant to make submissions on the report, the Scrutiny Committee may reject the caste claim. In a given case, the Scrutiny Committee can also record a finding that the caste claim is genuine. It all depends on the facts of each case."*

3. The reason for refusing the validity certificate to the Petitioner is on account of a conclusion drawn by the committee in the impugned order that all the validity holders from the paternal side (blood relations), have acquired such validity certificates from the competent committees, which missed the aspect of interpolations. The learned AGP has strenuously contended that most of the blood relatives have different entries in their records like Munnurwad, Mannurwar and Mannervarlu. According to the committee, all these validity holders have succeeded in convincing the committees, by suppressing the interpolations in the records.

4. We are unable to accept the submissions of the Committee, at this stage. The Petitioner's biological uncle Rameshwar, who is the brother of the Petitioner's father Prahlad, has been granted validity certificate. The Petitioner's father Prahlad has three brothers, namely Ananda, Manohar and Rameshwar. Two daughters of Manohar, namely Mangal and Sheela have been granted validity certificates. Two daughters and one son of Ananda, namely Shobha, Vijaymala and Datta have been granted validity certificates. The Petitioner's grand-father is Datta Mallu and his biological brother is Digambar Mallu. Digambar had four sons, namely Mallu, Maroti, Dashrath and Balaji. Sanjay, son of Maroti and Poonam and Dipali, daughters of Dashrath, have been granted validity certificates by the committee.

5. In the above backdrop, the relations between the Petitioner and the above-stated blood relatives has not been disputed. It is the committee's conclusion that all these nine validity certificates have been acquired by misleading the committees. We do not find that the committee has initiated any proceedings for reopening these cases and for scrutinizing the validity certificates issued to these nine persons on the basis of the purported interpolations in various statutory documents.

6. In **Apporva Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No.1 and others; 2010 (6) Mh. L.J. 401**, this Court has concluded that when the biological father, biological siblings, biological uncle etc. are granted validity certificates, a candidate so related to them, cannot be deprived of a validity certificate.

7. In **Shweta Balaji Isankar vs. The State of Maharashtra and others** (Writ Petition No.5611/2018) decided on 27.07.2018, this Court has concluded in paragraph 2, 3, 4 and 8 wherein it was held that if all the validity holders, who are the basis of the the Petitioner's claim, are subjected to reopening of the inquiries and are subsequently declined the validity certificates, the Petitioner can also be dealt with in the same manner.

8. In view of the above, considering the law laid down by this Court in **Apporva Vinay Nichale** (supra), **Shweta Balaji Isankar** (supra) and the decision of the Hon'ble Supreme Court in **Mah. Adiwasi Thakur Jamat Swarakshan Samiti** (supra), **this petition is partly allowed**. The impugned order dated 05.12.2023 is quashed and set aside.

9. Considering the law laid down in **Shweta Balaji Isankar** (supra), the Competent Committee shall issue a validity certificate to the Petitioner within 30 days from today and if any of the blood relatives, as cited by the Petitioner, suffer reopening of their cases and if their claims are invalidated, the consequences suffered by such candidates, would befall upon the present Petitioner who would also suffer similar consequences.

[Y.G. KHOBRAGADE, J.]

[RAVINDRA V. GHUGE, J.]