



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 1369 OF 2022

Vikas s/o Mohan Nagtilak,
Age-28 years, Occ. Service,
R/o At- Gunjewadi, Post-Ambejawalge,
Tq. & Dist. Osmanabad.

... **Petitioner**

V/s.

1. The State of Maharashtra
Department of Tribal Development,
Mantralaya, Mumbai- 32.
Through its Secretary.
2. The Scheduled Tribe Certificate
Scrutiny Committee,
Aurangabad Division, Aurangabad
Through its Member Secretary.
3. The Collector,
Office of the Collectorate,
Osmanabad, Tq. & Dist. Osmanabad.
4. The Sub Divisional Officer,
Osmanabad, Tq. & Dist. Osmanabad.

... **Respondents**

**AND
WRIT PETITION NO. 2221 OF 2022**

Suyshri s/o Mohan Nagtilak,
Age-29 years, Occ. Student,
R/o Gunjewadi, Tq. Osmanabad,
Dist. Osmanabad.

... **Petitioner**

V/s.

1. The State of Maharashtra
Department of Tribal Development,
Mantralaya, Mumbai- 32.
Through its Secretary.
2. The Scheduled Tribe Certificate
Scrutiny Committee,
Aurangabad Division, Aurangabad
Through its Member Secretary.
3. The Chief Executive Officer,
Zilla Parishad, Osmanabad,
Tq. & Dist. Osmanabad.
4. Child Development Project Officer,
Integrated Child Development Services
Scheme, Osmanabad,
Tq. & Dist. Osmanabad.

... Respondents

AND

WRIT PETITION NO. 1368 OF 2022

Sachin s/o Shivaji Nagtilak,
Age-29 years, Occ. Service,
R/o At- & Post – Ganesh Nagar,
Yedshi, Tq. & Dist. Osmanabad.

... Petitioner

V/s.

1. The State of Maharashtra
Department of Tribal Development,
Mantralaya, Mumbai- 32.
Through its Secretary.
2. The Scheduled Tribe Certificate
Scrutiny Committee,
Aurangabad Division, Aurangabad
Through its Member Secretary.
3. The District Malaria Officer,
Central Administrative Building,
Osmanabad, Tq. & Dist. Osmanabad.

... Respondents

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Mr. S.C. Yeramwar, Advocate for the Petitioners
Ms. Neha Kamble, AGP for the Respondent-State
Mr. V.M. Vibhute, Advocate for Respondent Nos.3 & 4 in WP/2221/2022

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CORAM : RAVINDRA V. GHUGE &
Y.G. KHOBRAGADE, JJ.
DATE : 10th June, 2024

ORAL JUDGMENT (Per: Ravindra V. Ghuge, J.):-

1. Rule. Rule made returnable forthwith and heard finally with the consent of the parties.
2. After considering the extensive submissions of the learned advocates, we have perused the two orders passed by a Co-ordinate Bench of this Court, dated 20.03.2024 in Writ Petition No.2237/2022 (Ratnaprabha d/o Jaydev Nagtilak V/s.State of Maharashtra and Anr.) and dated 19.04.2024, delivered in Writ Petition No.2234/2022 (Vaibhav Narayan Nagtilak V/s. State of Maharashtra and Anr.) and Writ Petition No.2258/2022 (Ashvini Mohan Nagtilak). In both these orders the Co-ordinate Bench has conditionally granted validity certificates. The identical conditions imposed by the Co-ordinate Bench read as under:

“II) The impugned decision and order passed by the Scheduled Tribe Certificate Scrutiny Committee-Respondent No.2 dated 31.12.2021 invalidating the tribe claim of the petitioners in both the petitions is hereby quashed and set aside

III) The Respondent No.2-Committee is directed to issue validity certificate in favour of the Petitioners in both the petitions for 'Thakar-Scheduled Tribe' subject to final outcome of pending inquiry regarding reopened cases of blood relations of the petitioners.

IV) In case the Committee recalls the validity certificates granted in favour of the blood relations of the petitioners, the petitioners shall also be liable to be dealt with accordingly."

3. There is no dispute that the two Petitioners before us, namely Vikas s/o Mohan Nagtilak and Suyshri d/o Mohan Nagtilak, are siblings. Both are biological sister and brother of Ashvini Mohan Nagtilak, who has been granted conditional validity by order dated 19.04.2024. As such, **both these WRIT PETITIONS** i.e. Writ Petition No. 1369/2022 (Vikas Mohan Nagtilak) and Writ Petition No.2221/2022 (Suyshri Mohan Nagtilak), **are PARTLY ALLOWED** with the same conditions as imposed by the Co-ordinate Bench, more so, keeping in view the law laid down by this Court in **Shweta Balaji Isankar Vs. State of Maharashtra & Ors., in Writ Petition No. 5611/2018** decided by this Court [**Coram: S. C. Dharmadhikari & Bharati H. Dangre JJ.**], vide judgment dated 27.07.2018. The conditions re-produced above from the case of Ashvini Mohan Nagtilak, shall squarely apply to the cases of these two Petitioners, namely Vikas s/o Mohan Nagtilak and Suyshri d/o Mohan Nagtilak. **Rule is made partly absolute in the above terms.**

4. In the case of Sachin s/o Shivaji Nagtilak (Writ Petition No.1368/2022), the learned advocate for the Petitioner has drawn our attention to the extensive family tree prepared at the time of the vigilance inquiry. This family tree originates from Bhujanga. Ratnaprabha d/o Jaydev Nagtilak, has been granted validity certificate by the Co-ordinate Bench of this Court, vide order dated 20.03.2024 in Writ Petition No.2237/2022. Ratnaprabha is from the branch of Vishwanath s/o Aaba (Aaba being the son of Ramchandra and grandson of Bhujanga).

5. The family tree indicates the sons of Bhujanga, namely Ramchandra, Mansingh, Sheku, Bapu and Narayan @ Ishwaguppa. The Petitioner Sachin, is the son of Shivaji and grandson of Laxman. Laxman is the son of Maroti and grandson of Narayan (Ishwaguppa). According to the learned advocate for the Petitioner, there is no dispute that Narayan is the biological brother of Mansingh and Ramchandra, and all these 3 are the biological sons of Bhujanga. This aspect is undisputed.

6. From the branch of Ramchandra, Ratnaprabha d/o Jaydev Nagtilak has been granted conditional validity certificate by the Co-ordinate Bench of this Court. Ashvini Mohan Nagtilak is from the branch of Ramchandra. Vaibhav s/o Narayan Nagtilak, who has also been granted conditional validity certificate by the Co-ordinate Bench of this Court, is from

the branch of Mansingh. It is therefore the contention of the learned advocate for the Petitioner Sachin s/o Shivaji Nagtilak, that as Vaibhav s/o Narayan Nagtilak, Ashvini d/o Mohan Nagtilak and Ratnaprabha d/o Jaydev Nagtilak, are distant paternal cousins of the Petitioner, a validity certificate can be granted to the Petitioner Sachin on the same terms and conditions on which the Co-ordinate Bench has granted validity certificates to Vaibhav, Ashvini and Ratnaprabha.

7. The learned AGP strenuously submits that some of the blood relatives of these Petitioners have been subjected to re-opening of their cases and it in this backdrop, that the Co-ordinate Bench granted conditional validity certificates imposing the above re-produced conditions. She, therefore, submits that if this Court is inclined to accept the Writ Petition filed by Sachin s/o Shivaji Nagtilak, similar conditions be imposed on the said Petitioner.

8. The law has been well settled in **Shweta Balaji Isankar** (supra), by which this Court has ruled that if the validity certificates of any of the holders, who are subjected to reopening of their cases, are set aside and such holders suffer adverse orders after reopening of the cases, the same consequences would befall upon those Petitioners who have placed reliance upon such certificate holders for seeking validity certificates from this Court.

9. This Court has held in paragraph nos. 2 to 4 and 8 in **Shweta Balaji Isankar** (supra), as under:

"2. On the earlier occasion, we found that though the petitioner produced credible evidence in the form of certificates of validity issued to her real uncle Govind Sambhaji Isankar and which concededly has been issued way back on 5th December 2005 and another certificate of validity dated 5th September 2006 to his cousin uncle Ramdas Sambhaji Isankar, the Committee finds that the certificate of validity issued to the real uncle Govind, is not free from suspicion. It is held by the Committee in the impugned order that a notice to show cause has been issued to said Govind on 14th September 2017, calling upon him to show cause as to why this certificate of validity should not be cancelled as its issuance is vitiated by fraud or suppression of material facts by the said Govind.

3. On such a finding being rendered by the Committee, we called upon the learned AGP on the earlier two occasions to produce the record. We also indicated to the learned AGP as to how the certificate of validity is denied to the petitioner though she has established her relationship with the said Govind and only on the ground that a show cause notice has been issued, but no proceedings in furtherance thereof came to be initiated till date. The learned AGP sought time to file an affidavit. Now, the Joint Commissioner, Schedule Tribe Scrutiny Committee, Aurangabad has filed an affidavit in reply. That is taken on record. The said affidavit admits that the certificate of validity has been issued to her real uncle and cousin uncle of the petitioner. The affidavit admits that the petitioner relies heavily on these two documents, but clarifies that there is a suppression detected from the original record of the certificate holder and that is how a show cause notice has been issued to Govind. The show cause notice could not be taken to its logical end on account of the huge pendency of cases before this Committee. In all, 7,000 matters were pending on the date when this Joint Commissioner took charge and he has reduced the pendency by 2500 cases being decided. In the circumstances, he says that appropriate orders and directions be issued by this Court.

4. We are not impressed by this explanation and the justification not to proceed against a person who has perpetrated a fraud on the public. If it is a serious allegation and which is termed as fraud, then, it should have been taken to its logical end. Mere issuance of a show cause notice in the present case would not suffice for there are two certificates of validity relied upon. The only reason assigned in the impugned order to discard them, cannot be sustained. The

justification in the above affidavit is also not enough to straightaway discard the certificates of validity issued in the family. It is conceded that other reasons assigned in the impugned order cannot be supported in law.

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8. *This order does not prevent the Committee from proceeding against Govind in accordance with law and needless to further clarify that in the event Govind's claim is invalidated, all the consequences shall be taken by the petitioner as well."*

10. In view of the above and since the relationship between Sachin s/o Shivaji Nagtilak and the other cousin sisters and brothers from the Paternal side, who have been granted validity certificates by the High Court, is not disputed and in view of the fact that all these Petitioners find place in the family tree/chart which has been prepared by the Scrutiny Committee during the vigilance cell inquiry, the **present Writ Petition is partly allowed**. The Petitioner would be granted validity certificate in the light of the law laid down in **Shweta Balaji Isankar** (supra) and the conditions imposed by the Co-ordinate Bench of this Court, which have been re-produced herein-above.

11. Needless to state, that if any of these Petitioners before us face a situation of their cousin blood relatives suffering adverse orders in the re-opened cases or if adverse orders are passed in any case of a blood relative / cousin brother / sister/relative, these Petitioners would also be liable to face re-opening of their cases and consequences after re-opening of such cases shall follow.

12. **Rule is made partly absolute in the above terms.**

13. Needless to state that, if these Petitioners acquire any benefits on the basis of such validity certificates in service or in any walk of life, such benefits would be liable to be taken away in view of any situation noted above. The learned advocate for the Petitioner submits on instructions that the Petitioners would be liable to suffer the consequences, though they would avail of the legal remedies as are permissible in law.

14. We expect the authorities to issue validity certificates to these Petitioners, on or before 30.06.2024.

[Y.G. KHOBRADE, J.]

[RAVINDRA V. GHUGE, J.]