



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

WRIT PETITION NO. 4226 OF 2021

Shivaji Shamsundar Gangalwad .. Petitioner

Versus

The State of Maharashtra and another .. Respondents

Shri Sagar S. Phatale, Advocate for the Petitioner.

Shri S. R. Yadav Lonikar, A.G.P. for the Respondent Nos. 1 and 3.

Shri M. D. Narwadkar, Advocate for the Respondent No. 2.

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

DATE : 14 OCTOBER 2024.

FINAL ORDER :

. Heard both the sides finally at the stage of admission in the light of exigency expressed by the petitioner.

2. The petitioner is challenging the order of the Scrutiny Committee passed in the proceeding filed U/Sec. 7 of the Maharashtra Act No. XXIII of 2001 refusing to validate his 'Mannervarlu' scheduled tribe certificate.

3. We have heard both the sides and perused the papers. Independent of the merits being discussed by the Committee in the impugned judgment and order, it is evident as has been pointed out by the learned advocate for the petitioner that no independent vigilance enquiry was conducted in the matter of

one Ambadas Balaji Gangalwad and he was allowed to adopt vigilance enquiry conducted in the petitioner's matter. Based on that vigilance report Ambadas's claim was discarded by the Committee. In Writ Petition No. 13606 of 2023, by order dated 31 October 2023, for the reasons recorded therein the writ petition was allowed partly and he was directed to be issued with the certificate of validity, whose validity was made subject to final outcome of the matter of one Rajendra, which the Committee had decided to reopen. Meaning thereby that the evidence discussed by the Committee in the impugned judgment and order was already subject matter in the case of Ambadas Balaji Gangalwad and for the reasons that we had recorded he was held entitled to have a certificate of validity. If this being so, we cannot again sit over the same set of evidence that was discussed in the matter of Ambadas Balaji, even in the present matter. For this reason alone even the petitioner would sail in the same boat that of Ambadas Balaji and would be entitled to have certificate of validity subject to usual conditions.

4. True it is, as pointed out by the learned A. G. P. there is some variance in the genealogies furnished in the present matter, one prepared in the matter of Ambadas Balaji on the basis of statement of petitioner's father and one relied upon by one of the validity holder Vijay Gangadhar Gangalwad, who in turn was relying upon the affidavit and the genealogy furnished by one Nitin Vitthalrao Gangalwad. Though in the former common ancestor Mahadu was shown to have two sons Rama and Mashna

and Rama was shown to have no issue. In the genealogy furnished by Nitin Vitthalrao he was claiming to be descendant of very same Rama Mahadu. However, the submission of the learned A. G. P. that the petitioner's father had intentionally concealed the branch of Rama to come out of invalidation faced by Ram's grand son Venkati Maroti, with equal vehemence can be used to demonstrate that even Nitin Vitthalrao would then be related to the petitioner by blood and would be entitled to derive benefit of his validity as was done by his cousin Vijay Gangadhar.

5. Besides, we have been consistently holding that invalidation proceedings would operate *in personam* and would not apply to all other blood relatives who would still be entitled to assert the claim and discharge the burden cast upon them U/Sec. 8 of the Maharashtra Act No. XXIII of 2001.

6. Even if the Committee now, as has been submitted by the learned A. G. P. intends to point out invalidation of Venkati Maroti as a ground to draw an inference about being active concealment, it would be for the committee to justify such inference by undertaking due process of law by issuing show cause notices to the validity holders. However, till the time the Committee is able to recall the validities, the petitioner is entitled to have the benefit of those validities.

7. In the light of above, the writ petition is allowed partly. The impugned judgment and order dated 13.12.2020 passed by

the respondent/Scrutiny Committee is quashed and set aside. The respondent/scrutiny committee shall immediately issue certificate of validity to the petitioner as belonging to 'Mannervarlu' scheduled tribe in prescribed proforma. The validity of the petitioner shall be co-terminus with all the validities in the family. The petitioner shall not be entitled to claim equities.

[SHAILESH P. BRAHME J.]

[MANGESH S. PATIL, J.]

bsb/Oct. 24