



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

933 WRIT PETITION NO. 2234 OF 2022

VAIBHAV NARAYAN NAGTILAK
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND
ANOTHER

...
Mr. S. C. Yeramwar, Advocate for the Petitioner.
Dr. K. B. Patil Bharaswadkar, AGP for Respondent Nos.1 and 2 – State.
...

934 WRIT PETITION NO. 2258 OF 2022

ASHVINI MOHAN NAGTILAK
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Mr. S. C. Yeramwar, Advocate for the Petitioner.
Mr. P. S. Patil, AGP for Respondent Nos.1 and 2 – State.
...

**CORAM : SMT. VIBHA KANKANWADI AND
S. G. CHAPALGAONKAR, JJ.**

DATE : 19th APRIL, 2024.

ORDER :-

. The petitioners in both the writ petitions have approached this Court under Article 226 of the Constitution of India impugning the order dated 31.12.2021 passed by Respondent No.2 – Scheduled Tribe Certificate Scrutiny Committee, Aurangabad, thereby invalidating their tribe claim and seek declaration that the petitioners belong to 'Thakar Scheduled Tribe'.

2. The petitioners in both the writ petitions contend that they belong to 'Thakar Scheduled Tribe' community, which is recognized as Scheduled Tribe in the State of Maharashtra. Sub-Divisional Magistrate, Osmanabad issued a caste certificate that petitioners belong to 'Thakar Scheduled Tribe'. On 28.02.2014 and 07.07.2015 respectively, College forwarded both the petitioners proposal for verification of the tribe claim to respondent No.2 – Committee. It was accompanied by an affidavit with genealogy in Namuna Form F, the school record of the petitioners and revenue/birth record of their parental relatives since 1913 showing caste status as 'Thakar'. The certificates of validity issued in their favour. The Committee had never referred the file of the Petitioner in Writ Petition No.2234 of 2022 to the vigilance cell for inquiry and straightway invalidated his tribe claim by giving erroneous reasons. Further, the Committee had referred the claim of the Petitioner in Writ Petition No.2258 of 2022 to vigilance officer, who submitted its report on 02.12.2017. Thereafter, the petitioner in Writ Petition No.2258 of 2022 was served with the report, which has been duly replied on 24.02.2020. However, the committee invalidated her tribe claim by giving erroneous reasons.

3. Mr. S. C. Yeramwar, learned Advocate appearing for the petitioners in both the petitions invites attention of this Court to the reasons recorded in the impugned order. He would point out that as

many as 32 parental side relatives of the petitioners have been conferred with validity certificate. The Committee discarded the validity certificate of Lahu Gajendra Nagtilak merely on the ground that he has been conferred validity without affinity test. So far as validity certificates issued in favour of Nilavati Gulab Nagtilak, Ashabai Gulab Nagtilak and Mira Goroba Nagtilak, the Committee observed that out of four Members of the Committee, only three members have signed on order, therefore, such decision of the Committee is not in conformity with Rule 10 of 2003 Rules. He would, therefore, submit that the reasoning adopted by the Committee is perverse.

4. Dr. K. B. Patil Bharaswadkar and Mr. P. S. Patil, learned AGPs appearing for respondent Nos.1 and 2 in respective petitions support the decision of the Committee. They would invite attention of this Court to the order in Writ Petition No.9797 of 2017 (at Principal Seat) dated 28.11.2017 in the matter of **Machindra Soniram Nagtilak Vs. State of Maharashtra and others** with companion matters to contend that this Court has directed initiation of inquiry in the matters of validities granted to petitioner's family members. Accordingly, the Committee has issued show cause notices to those validity holders and matter is under consideration before the Committee. They would therefore submit that the petitioners cannot be permitted to derive benefit of validity certificates which are now subjected to re-inquiry

before the Committee.

5. We have considered the submissions advanced on behalf of learned Advocates appearing for the respective parties in respective petitions. We have perused the record tendered into service. We find that as many as 32 validity certificates have been issued by the Committee in favour of paternal relatives of the petitioners. There is hardly any dispute as regards to relationship of the petitioners with the validity holders. It is true that this Court in case of **Machindra (supra)** made certain *prima facie* observations as regards to validity certificates issued to some of the paternal relatives of the petitioners and expressed that inquiry be carried in the matter of administration and implementation of the enactment by the Authorities. Pertinently, in paragraph No.29, this Court observed thus :-

"29. It is clarified that beyond the prima facie expression in the orders of the Scrutiny Committee, we have not held that the certificate holders have brought fraudulent and bogus claims or that the whole inquiry was not genuine and authoritative or that all the claims lack bona fides. All contentions in that regard of all sides are kept open."

6. At this stage, reference can be given to the judgment of this Court in case of **Apporva d/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee no.1 and others (supra)** reported in **2010 (6) Mh.L.J. 401** specifically held in paragraph no.7 thus :-

"7. We thus come to the conclusion that when during the course of inquiry the candidate submits a caste validity certificate granted earlier certifying that a blood relation of the candidate belongs to the same caste as that claimed by the applicant, the committee may grant such certificate without calling for Vigilance Cell Report. However, if the committee finds that the earlier caste certificate is tainted by fraud or is granted without jurisdiction, the Committee may refuse to follow and may refuse to grant certificate to the applicant before it."

7. Keeping in mind the aforesaid observations of this Court, we do not find that the Committee's order invalidating tribe claim of the petitioners is sustainable in law. However, considering the fact that the Committee has undertaken inquiry as regards to validity holders from paternal blood relations of the petitioners, it would be appropriate to allow the Writ Petitions subject to final outcome of the inquiry by the Committee in the reopened cases. Resultantly, we proceed to pass the following order :-

ORDER

- I) Both the writ petitions are partly allowed.
- 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.

V) Writ Petitions are accordingly disposed of. No costs.

[S. G. CHAPALGAONKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm