



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2237 OF 2022

Ratnaprabha d/o. Jaydev Nagtilak
age 30 yrs, Occ. Student,
R/o at and post Ganesh Nagar,
Yedshi, Tq. & Dist. Osmanabad. Petitioner.

VERSUS

1. The State Of Maharashtra
Department of Tribal Development,
Mantralaya, Mumbai – 32.
Through it's Secretary.
2. The scheduled Tribe Certificate
Scrutiny Committee, Aurangabad
Division, Aurangabad Through
Its Member Secretary. Respondents.

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Advocate for the Petitioner : Mr. S.C. Yeramwar
AGP for Respondent nos.1,2 : Mr. N.S. Tekale
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**CORAM : SMT. VIBHA KANKANWADI &
S. G. CHAPALGAONKAR, JJ.**

Reserved on : March 12, 2024.

Pronounced on : March 20, 2024.

FINAL ORDER :- (Per S.G. Chapalgaonkar, J.)

1. The Petitioner has approached this Court under Article 226 of the Constitution of India impugning the order dated 31.12.2021 passed by the Respondent No.2-Scheduled Tribe Certificate Scrutiny Committee, Aurangabad, thereby invalidating her tribe claim and seeks declaration that the petitioner belongs to 'Thakar Scheduled Tribe.'

2. The petitioner contends that she belongs 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 petitioner belongs to 'Thakar Scheduled Tribe'. On 29.7.2011, College forwarded Petitioner's 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 petitioner and revenue/birth record of her parental relatives since 1913 showing caste status as 'Thakar'. The certificates of validity issued in their favour. The Committee had referred petitioners claim to vigilance officer, who submitted its report on 2.2.2017. The petitioner was served with the report, which has been duly replied on 24.2.2020. However, the Committee invalidated her tribe claim of giving erroneous reasons.

3. Mr. S.C. Yeramwar, learned advocate appearing for the petitioner 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 petitioner 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. Mr. N.S. Tekale, learned AGP appearing for respondent nos.1 and 2 supports the decision of the Committee. He 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. He would therefore submit that the petitioner 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. 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 petitioner. There is hardly any dispute as regards to relationship of the petitioner 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 petitioner 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 bonafides. 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 **Apoorva 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 petitioner 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 petitioner, it would be appropriate to allow the

Writ Petition subject to final outcome of the inquiry by the Committee in the reopened cases. Resultantly, we proceed to pass the following order.

ORDER

- i. Writ Petition is partly allowed.
- ii. The impugned decision and order passed by the Scheduled Tribe Certificate Scrutiny Committee-Respondent No.2 dated 31.12.2021 invalidating petitioner's Tribe claim is hereby quashed and set aside.
- iii. The Respondent No.2-Committee is directed to issue validity certificate in favour of the Petitioner for 'Thakar-Scheduled Tribe' subject to final outcome of pending inquiry regarding reopened cases of blood relations of the petitioner.
- iv. In case the Committee recalls the validity certificates granted in favour of the blood relations of the petitioner, the petitioner shall also be liable to be dealt with accordingly.
- v. Writ Petition is accordingly disposed off. No costs.

(S. G. CHAPALGAONKAR, J.) (SMT. VIBHA KANKANWADI, J.)

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