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

WRIT PETITION NO. 3740 OF 2024

Sunil Narayan Wallamwad,
Age: 35 years, Occ: Selectee (Pre Service),
R/o. At Post Nandkheda,
Tq. and Dist. Parbhani,

....PETITIONER

VERSUS

1. State of Maharashtra,
through its Principal Secretary,
Home Department,
Mantralaya, Mumbai-32
2. Directorate of Forensic Science,
Maharashtra State, Hans Bhugra Marg,
Vidya Nagari Kalina,
Mumbai-431606
through its Director
3. Schedule Tribe Certificate
Scrutiny Committee, Aurangabad,
through its Member Secretary

....RESPONDENTS

....

Mr Mahesh S. Deshmukh, Advocate for Petitioner;
Mr S. K. Tambe, A.G.P. for Respondents/State

**CORAM : RAVINDRA V. GHUGE
AND
Y. G. KHOBRAGADE, JJ.**

DATE : 11th June, 2024

ORAL JUDGMENT (PER : Ravindra V. Ghuge, J.)

1. Rule. Rule made returnable forthwith and heard finally by consent of the respective sides.

2. On 10/04/2024, we had passed the following order :-

“1. The Petitioner's claim of belonging to the Mannervarlu Scheduled Tribe Category has been rejected by the order dated 05.04.2024. He has been selected to the post of "Scientific Officer, Cyber Crime, Tape Authentication and Speaker Identification, Grade B (Gazetted)". He apprehends cancellation of his selection.

2. Our attention is drawn to the family tree, which was placed before the Committee. The Petitioner's biological brother Balaji son of Narayan, has been granted validity certificate of Mannervarlu Scheduled tribe category. The father of the Petitioner and Balaji, namely, Narayan, is the biological brother of Shrirang Vishwanath, Baburao Vishwanath, Pandurang Vishwanath, Pandharinath Vishwanath, Ramkishan Vishwanath and sister Parvati Vishwanath. Two sons of Baburao, namely, Vishwanath and Vaijanath, are first biological cousins of the Petitioner who have been granted validity certificates of the same S. T. category. One son Shrikant and his two sisters Daivshala and Sonali, are the children of Shrirang. They are also first biological cousins of the Petitioner and have been granted validity certificates of the same S. T. Category.

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3. *The learned AGP submits that this Court should refrain from granting interim relief until the record is produced before Court and the AGP is ready with the matter. He further submits that show cause notices have been issued to the other validity holders.*

4. *Issue notice to the Respondents, returnable on 30th April, 2024. The learned AGP waives service of notice on behalf of Respondent Nos. 1, 2 and 3. By consent of the parties, this matter would be called out after the fresh admissions board.*

5. *To balance equities, we direct that the selection of the Petitioner shall not be cancelled, in view of the six validity holders in the family tree, until further orders in this Petition, in relation to the invalidation of his claim.*

6. *All office objections to be removed on or before 25th April, 2024, failing which, this Petition would stand dismissed without further reference to the Court on 26th April, 2024.”*

3. The learned A.G.P. has vehemently opposed this Writ Petition on the following grounds :-

(a) The first validity that was granted by the Scrutiny Committee was in favour of Daivshala Shrirang Wallamwad, based on entries of the maternal relatives. Her father Shrirang is

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the grandson of Tulshiram Kondiba Wallamwad and son of Vishwanath Tulshiram Wallamwad.

(b) Daivshala was granted validity certificate as belonging to the 'Mannervarlu' Scheduled Tribe category on the basis of a maternal entry.

(c) In paragraph 22 of the Judgment in **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others, AIR 2023 Supreme Court 1657**, the Hon'ble Supreme Court will not permit granting of validity certificate to the present Petitioner.

(d) With regard to the validity certificates issued to Shrikant Shrirang Wallamwad and Sonali Shrirang Wallamwad (siblings of Daivshala), no Vigilance Cell inquiry was conducted.

(e) Vigilance Cell inquiry was conducted in the case of Balaji Narayan Wallamwad. Narayan Vishwanath Wallamwad is the biological brother of Shrirang Vishwanath Wallamwad and

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Baburao Vishwanath Wallamwad. Vishwanath Tulshiram Wallamwad had 7 children.

(f) The validity certificates granted to Vishwanath Baburao Wallamwad and Vaijanath Baburao Wallamwad were on the basis of Vigilance Cell inquiry conducted in the case of Balaji Narayan Wallamwad and by relying upon the validity granted to Balaji Narayan and Daivshala Shrirang.

4. The learned AGP submits that the Committee intends to issue a notice for re-opening of the cases for Daivshala Shrirang, Shrikant Shrirang, Sonali Shrirang, Balaji Narayan, Vishwanath Baburao and Vaijnath Baburao.

5. This Court at the Principal Seat has delivered a judgment in **Shweta Balaji Isankar vs. The State of Maharashtra and others, 2018 SCC OnLine Bom 10363** (Writ Petition No.5611/2018), decided on 27/07/2018, wherein it has been concluded in paragraph Nos.3 and 4 as under :-

“3. On such a finding being rendered by the Committee, we called upon the learned AGP on the earlier two

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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

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assigned in the impugned order cannot be supported in law.”

6. In **Apoorva Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No.1 and others; 2010 (6) Mh. L.J. 401**, this Court has concluded that, if several biological relatives from the paternal side have been granted validity certificates, the Committee cannot come to a conclusion in a given case that the said candidate does not belong to the same caste or tribe, with reference to which series of biological relatives have been granted validity certificates.

7. The learned A.G.P. strenuously submits that, if the cases on which the present Petitioner places reliance upon, are re-opened, the material available would indicate that validity certificates granted to all such cases, should be set aside.

8. We would consider the submissions of the learned A.G.P. as a submission in speculation. We cannot pre-suppose that the Committee would come to a particular conclusion. We would not wish to make any comment on the contention of the

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learned A.G.P. that all the cases in which validity certificates have been granted, would be reopened.

9. It is a matter of circumspection, as to how many months or years would be taken to decide such cases and whether in this backdrop, the Petitioner can be kept in suspended animation, waiting for an appointment to the post of ‘Scientific Officer, Cyber Crime, Tape Authentication and Speaker Identification, Grade-B (Gazetted)’, pending decision in the cases of the his relatives. The pragmatic approach in this circumstances, pitted against a pedantic approach, would be to grant a conditional certificate to the Petitioner in the light of **Shweta Balaji Isankar (supra)**, and by recording that the Petitioner would face a reopened case as regards his validity certificate, if his cousins, who have been granted validity certificates, suffer invalidation on account of reopening of their cases.

10. In view of the above, **this Writ Petition is partly allowed.** The Competent Committee shall issue a validity certificate to the Petitioner as belonging to the ‘Mannervarlu’

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Scheduled Tribe category, by 20/06/2024. After such validity certificate is granted, the concerned Authorities, who have selected the Petitioner, are at liberty to issue an appointment order to the Petitioner. Needless to state, if any of the biological cousins, on whom the Petitioner has relied upon for receiving the validity certificate under this order, suffer invalidation on account of the reopening of their cases, the present Petitioner would be liable to suffer the same consequences.

11. Rule is partly made partly absolute in the above terms.

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)

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