



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

Writ Petition No. 6181/2024

1. Pranjalee Subhash Mupde
Age : 20, Occ. Student
2. Sai Subhash Mupde
Age : Minor, Occ. Student,
under guardianship of father
Subhash Dattaram Mupde,
Age : 45 years, Occ. Service.
3. Pruthviraj Balaji Mupde
Age : 23, Occ. Student,
All above R/o. A/p Atala,
Tq. Dharmabad, Dist. Nanded,
At present Plot No. 46, Survey No. 46/P
New Ganesh Nagar, Garkheda Parisar,
Chhatrapati Sambhajinagar.

... Petitioners

Versus

1. The State of Maharashtra,
Through Secretary,
Tribal Development Department
Maharashtra State,
Mantralaya Mumbai.
2. The Scheduled Tribe Certificate
Scrutiny Committee,
Kinwat Division, Hq. Aurangaba,
Through its Member Secretary.
3. The Sub-Divisional Officer,
Dharmabad, Nanded.

4. Maharashtra National Law University,
Aurangabad, through its Registrar,
Nath Valley School Road, Kanchanwadi,
Chhatrapati Sambhajinagar.
5. Project Officer, Integrated Tribal
Development Project, Chh.Sambhajinagar,
Reliance Mall, 3rd Floor, Garkheda Parisar,
Chhatrapati Sambhajinagar.

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Advocate for Petitioners : Mr. A.S.Golegaonkar h/f

Mr. M. A.Golegaonkar

AGP for Respondent Nos. 1 to 3 : Mr. N.S.Tekale

Advocate for Respondent No. 4 : Mr. S.K.Kadam

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**CORAM : S.G.MEHARE &
SHAILESH P. BRAHME, JJ.**

**RESERVED ON : 18 DECEMBER 2024
PRONOUNCED ON : 20 DECEMBER 2024**

JUDGMENT [Per Shailesh P. Brahme, J.] :

. Rule.

2. Rule is made returnable forthwith considering urgency for the petitioners.

3. By the common judgment and order dated 31.06.2024 the tribe claims are rejected by the Scrutiny Committee for their tribe certificates of 'Mannvervarlu' which is impugned in the present petition. The validity certificates are discarded mainly on the ground

that Sahebrao Laxman Mupde had played fraud and invalidation of Jyoti Sheshrao Mupde was upheld upto the Supreme Court. Both these persons are the relatives of the petitioners.

4. The petitioner no. 1 and 2 are the siblings and cousins of the petitioner no. 3. They are relying on the validity certificates of following persons.

Sr No.	Names of Validity Holder	Relation	Date
1	Subhash Dattaram Mupde	Father	18.10.2011
2	Ujwala Digamber Mupde	Paternal Cousin aunt	04.05.2007
3	Ananda Digamber Mupde	Paternal Cousin uncle	02.12.2008
4	Parshram Digambar Mupde	Paternal Cousin uncle	09.09.2008
5	Vinodkumar Linguram Mupde	Paternal Cousin uncle	28.09.2011
6	Dattahari Madhav Mupde	Paternal Cousin uncle	-----
7	Rajendrakumar Madhav Mupde	Paternal Cousin uncle	04.10.2006

5. Learned counsel for the petitioner Mr. Golegaonkar submits that Rajendrakumar Madhav Mupde is the first validity holder in whose case due procedure was followed. It is contended that Sahebrao Laxman Mupde and Jyoti Sheshrao Mupde are not the blood relatives of the petitioners. In the present matter, no vigilance was conducted to find out the relationship of the petitioners with those persons. The petitioners are surprised by findings holding them to be relatives of the petitioners. It is further submitted that the validities of the above referred persons are still intact, though they are facing re-verification.

6. Learned counsel for the petitioner submits that the tribe certificate of Sahebrao was invalidated and against that Writ Petition No. 4119 of 2023 was filed in the High Court. The protection has also been granted to him vide order dated 15.05.2023. He would further submit that there is no material to infer fraud or suppression of material facts.

7. Learned A.G.P tenders on record the original files of Sahebrao, Subhash, Rajendrakumar, Ujwala and Others. He would submit that the petitioners were relying on the validities of number of persons. While examining their validities it was transpired that Sahebrao and Jyoti are related to the petitioners. Therefore the committee has rightly discarded the validity certificates. It is further submitted that Sahebrao had committed fraud and the first validity holder in the family i.e Ujwala Digamber Mupde was banking on Sahebrao for validities. Thereafter Rajendrakumar was banking on validity of Sahebrao and in this manner the fraud is perpetuated. It is submitted that the relationship of the petitioners with Sahebrao and Jyoti was not necessarily to be disclosed in the vigilance report. It is the prerogative of the committee to examine the same while considering the validities of the persons relied on by the petitioners.

8. We have heard both sides. We have gone through relevant papers produced before us. The petitioners are relying on following validities.

Sr No.	Names of Validity Holder	Relation	Date
1	Subhash Dattaram Mupde	Father	18.10.2011
2	Ujwala Digamber Mupde	Paternal Cousin aunt	04.05.2007
3	Ananda Digamber Mupde	Paternal Cousin uncle	02.12.2008
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5	Vinodkumar Linguram Mupde	Paternal Cousin uncle	28.09.2011
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9. While discarding the validities the committee mainly relied on fraud played by Sahebrao in suppressing earlier validation and confirmation of the invalidation of Jyoti upto Supreme Court. Learned A.G.P strenuously argued that from the genealogies referred in the impugned judgment that these persons are the blood relatives of the petitioners which is not disclosed by them. We are taken through the files of original papers of Sahebrao, Ujwala and Rajendra.

10. During the course of hearing it is transpired that Rajendrakumar Madhav Mupde is the first validity holder. He had relied on validity of Sahebrao Laxman Mupde, Ujwala Digamber Mupde also derived benefit of validity of Sahebrao. Father of the petitioner nos 1 and 2/Subhash Dattaram Mupde also holds validity.

11. It reveals from record that vigilance enquiry was conducted in

the matter of Subhash. There was verification of the school record of various relatives including contrary record. By the reasoned order he was issued with validity certificate. Due procedure of law appears to have been followed in his case. Hence his validity is reliable.

12. In case of Ujwala, Sahebrao had given affidavit stating that Ujwala was his second degree cousin sister. Ujwala had also submitted the affidavit on the same line. Interestingly Sahebrao is lineal descendant of branch of Rama and Ujwala is lineal descendant of branch of Shivayya. Jyoti is also lineal descendant of Rama. Rama's branch is completely excluded in the genealogy given by the petitioner. Sahebrao's validity is relied on by Rajendrakumar who is in the line of Shivayya. Our attention is adverted to affidavit of Sahebrao in Rajendrakumar's matter.

13. The vigilance enquiry conducted in the present matter is silent as to the relationship of the petitioners with Sahebrao and Jyoti. The scrutiny committee in the impugned judgment for the first time coalated the genealogies into genealogy no. 5 which is at page no. 186 of the paper book. It is incomprehensible as to how this exercise was not done during vigilance enquiry. The petitioners were not given opportunity to deal with this aspect of the matter. Learned counsel for the petitioner is right in contending that his clients are surprised by the invention of the committee.

14. We made specific query to learned AGP to point out the

statement recorded during the vigilance enquiry in any of the matters of the previous validity holders disclosing relationship of the petitioners with Sahebrao or Jyoti. No endeavor has been made to demonstrate the same. This suppression by Sahebrao and invalidation of Jyoti would not be detrimental to the petitioner.

15. It is informed that only show cause notices are issued to the validity holders. Even the Writ Petition No. 4119 of 2023 of Sahebrao is still pending in the High Court and he is enjoying interim protection. Unless earlier validities are revoked, the petitioners cannot be deprived of same social status. We are not impressed by the submission of learned AGP that committee can directly refer material casting doubt on the earlier validities.

16. In this regard Mr. Golegaonkar relies on the judgment of Madhuri Nitin Jadhav Vs. State of Maharashtra reported in 2014 (3) Mh.L.J 900 . The relevant portion is as follows :

43. The Scrutiny Committee must give all opportunities to the affected person. The evidence collected unilaterally by the Vigilance Cell/Authority/Officer, if used against the claimant, all opportunities be given to deal with the same. How the unilaterally collected material be used against the party/claimant, when deciding legal and constitutional rights. The principle of natural justice needs to be followed, in case of no specific rules. The opportunity needs to be given to the person/claimant to rebut the presumption of decision of Scrutiny Committee, if any, especially when against the Scrutiny Committee order, the Writ Petitions are filed, and the Writ Court under Articles 226 and 227, are required to go into the details of the disputed question of fact and documents, though writ jurisdiction and its scope is limited. The decision is required to be considered in Writ Petition like Appellate Authority. The Writ Court needs to examine the case on merits also, including the Vigilance Cell report, which just cannot be overlooked.

17. It would be apposite to refer to Rule 8 of Maharashtra Scheduled Tribes (Regulation of Issuance and Verification of)

Certificates Rules, 2003. which is as follows :

(8) If the Scrutiny Committee, on the basis of the Vigilance Cell report and other documents available, is not satisfied about the claim of the applicant, the Committee shall issue a show cause notice to the applicant and also serve a copy of the report of the Vigilance Officer by registered post with acknowledgment due. A copy shall also be sent to the Head of the Department concerned, if necessary. The notice shall indicate that the representation or reply, if any, should be made within fifteen days from the date of receipt of the notice and in any case not more than thirty days from the date of receipt of the notice. In case the applicant requests for adjournment or extension of the time-limit, reasonable time, may be granted.

18. In view of the statutory provisions referred above and the ratio of the Coordinate Bench the approach of the Committee in the present matter is against principles of natural justice.

19. Learned A.G.P relies on the judgment of this Court in **Chaitanya Sanjay Palekar vs. The State of Maharashtra and anrs.** in Writ Petition No. 8531 of 2022 and our attention is invited to paragraph nos. 11 and 12. The facts in that case are distinguishable from the present case. The present case is not a case of glaring fraud. We have reservations for relationship of the petitioners with Sahebrao and Jyoti.

20. Learned AGP also relies on the judgment of this Court **Yash Shrinivas Satelkar vs. State of Maharashtra and others** in Writ Petition No. 7720 of 2024. In that case the contrary and dubious record of period earlier to the latter favourable entries were traced out for discarding the validities. The facts of the present case are

distinguishable. Those judgment would be of no assistance to the respondents.

21. It would be open for the committee to undertake re-verification so as to find out this fraud or suppression of material fact. Mere invalidation of Jyoti Sheshrao Mupde or Smt. Sarswatibai Vithoba Mupde would not constitute fraud at this juncture as tried to be contended by learned AGP. The threadbare enquiry needs to be conducted for finding out the fraud by extending opportunity of hearing to the stakeholders. The petitioners are ready to run risk in view of Sheweta Balaji Isankar. They deserve conditional validity.

22. For the reasons recorded above, we find that impugned judgment and order is unsustainable. We therefore pass following order :

ORDER

- i) The impugned judgment and order dated 13.06.2024 is quashed and set aside.
- ii) The respondent/Scrutiny Committee shall issue conditional tribe/validity certificate to the petitioner forthwith, as petitioners are ready to face the consequences of re-verification of the validities granted to their relatives which they have relied upon.
- iii) The petitioners would not claim equity.
- iv) Rule is made absolute in above terms.

[SHAILESH P. BRAHME, J.]

[S.G. MEHARE]