



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

941 WRIT PETITION NO.6696 OF 2024

VAISHNAVI SUNIL TARU

VERSUS

1. THE STATE OF MAHARASHTRA THR. SECRETARY DEPT. OF TRIBAL
DEVELOPMENT MANTRALAYA, MUMBAI – 32
2. SCHEDULED TRIBES CERTIFICATE SCRUTINY COMMITTEE, NASHIK
DIVISION, NASHIK-2 THR. ITS MEMBER SECRETARY

AND

942 WRIT PETITION NO.6759 OF 2024

SANJANA AMOL TARU SINCE MINOR THR. HER GUARDIAN
AMOL ASHOK TARU

VERSUS

1. THE STATE OF MAHARASHTRA THR. SECRETARY DEPT. OF TRIBAL
DEVELOPMENT MANTRALAYA, MUMBAI – 32
2. SCHEDULED TRIBES CERTIFICATE SCRUTINY COMMITTEE, NASHIK
DIVISION, NASHIK-2 THR. ITS MEMBER SECRETARY

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Advocate for the Petitioner/s : Mr. Choudhari Deepak D.
AGP for Respondents: Mr. S.P. Joshi

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

DATE : 13.08.2024

PER COURT:

Heard.

2. By way of these two separate writ petitions the petitioners who are the distant cousins are challenging similar orders passed by the scrutiny committee. Since both of them have been relying upon validity of Suraj Padmakar Taru and same set of contrary entries/record is pitted against both of them, we have taken up both these matters for hearing

and are being disposed of by this common order.

3. As can be seen from the impugned judgment and order, the Committee by referring to the pre-constitutional record firmly believes that the petitioners' family belongs to 'Koli' which was earlier OBC and now is SBC. It is refusing to extend the benefit of validity of a blood relative Suraj Padmakar Taru on the ground that he had obtained the certificate of validity by intentionally concealing all these contrary entries/record.

4. Whether the circumstances being relied upon by the Committee in the impugned judgment to perceive about Suraj having practised fraud scrutiny, cannot be undertaken in the present matter, more so when he is not before us.

5. Whether Suraj had concealed the record and had practised the fraud would be a subject matter of the inquiry, which the Committee has decided to undertake to recall his validity. However, till the time the committee is not able to recall that validity, the petitioners would be entitled to derive the benefit provided the decision in the matter of Suraj granting validity fits into the parameters laid down by the Supreme Court in the matter of **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and Ors.; 2023 SCC Online SC 326**. Paragraph No.22 of the judgment reads as under :

22. We can also contemplate one more scenario which is found in many cases. These are the cases where the applicant relies upon caste validity certificates issued to his blood relatives. Obviously,

such a validity certificate has to be issued either by the Scrutiny Committee constituted in terms of the directions issued in Kumari Madhuri Patil [(1994) 6 SCC 241] or constituted under the Rules framed under the 2000 Act. In such a case, firstly, the Scrutiny Committee must ascertain whether the certificate is genuine. Secondly, the Scrutiny Committee will have to decide whether the applicant has established that the person to whom the validity certificate relied upon by him has been issued is his blood relative. For that purpose, the applicant must establish his precise and exact relationship with the person to whom the validity certificate has been granted. Moreover, an enquiry will have to be made by the Scrutiny Committee whether the validity certificate has been granted to the blood relative of the applicant by the concerned Scrutiny Committee after holding due enquiry and following due procedure. Therefore, if the Scrutiny Committee has issued a validity certificate contemplated in terms of the decision in the case of Kumari Madhuri Patil, the examination will be whether the enquiry contemplated by the said decision has been held. If the certificate relied upon is issued after coming into force of the 2000 Act, the Scrutiny Committee will have to ascertain whether the concerned Scrutiny Committee had followed the procedure laid down therein as well as in the ST Rules or the SC Rules, as the case may be. For this verification, the Scrutiny Committee can exercise powers conferred on it by Section 9(d) by requisitioning the record of the concerned Caste Scrutiny Committee, which has issued the validity certificate to the blood relative of the applicant. If the record has been destroyed, the Scrutiny Committee can ascertain whether a due enquiry has been held on the basis of the decision of the Caste Scrutiny Committee by which caste validity has been granted to the blood relative of the applicant. If it is established that the validity certificate has been granted without holding a proper inquiry or without recording reasons, obviously, the caste scrutiny committee cannot validate the caste certificate only on the basis of such validity certificate of the blood relative.”

6. The learned AGP has made available to us a scanned copy of the Suraj's file from the Scheduled Tribe Certificate Scrutiny Committee, Nashik, Division Nashik. It has passed following order while granting validity to Suraj:

ORDER
(Passed on 20.09.2008)

“Taru Saroj Padmakar (hereinafter referred to as an “applicant”) has applied vide his application dated 10/09/2007 for verification of his tribe claim as belonging to Mahadeo Koli, Scheduled Tribe.

The Scrutiny Committee (verified the proposal submitted by the applicant. The applicant has submitted required information in Form “E” as per Rule 11(1) and documents thereto as mentioned in Part IV-B along with his original caste certificate in support of his tribe claim.

The Scrutiny Committee has perused the information and documents submitted by the applicant and has appreciated the same. The applicant has established his affinity and ethnic linkage towards the people belonging to Mahadeo Koli, Scheduled Tribe community. The applicant’s ordinary place of residence of the applicant falls in the notified Scheduled Area.

The Scrutiny Committee is fully satisfied by verifying the documents and proofs produced by the applicant in support of his tribe claim. The Scrutiny Committee has come to the conclusion that the tribe claimed by the applicant is genuine one and therefore, as per Maharashtra Act No.XXIII of 2001 and Rule 12(2), the said case has not been handed over to the Police Vigilance Cell of the Scrutiny Committee for detail School and home enquiry and the scrutiny Committee decided to give decision on merit.

After considering the entire evidence on record, we, the Member of the Scrutiny Committee unanimously have come to the conclusion that the claim of the applicant, Taru Saroj Padmakar as belonging to Mahadeo Koli Scheduled Tribe is established and proved. Therefore, the caste certificate bearing No.MAG/SR/57/41/2005 dated 28/04/2005 issued by Sub Divisional Officer, Shrirampur Sub Division Shrirampur is held valid and the validity of tribe certificate be issued accordingly to the applicant.”

7. Bearing in mind the parameters laid down in **Maharashtra Adiwasi Thakur Jamat** (supra), since the Committee was ready to believe the claim it had expressly mentioned that vigilance inquiry was not needed/ordered. Even the then committee had applied affinity test and

even had resorted to principle of area restriction expressly observing that his place of residence was from the notified scheduled area. Considering the reasoning resorted to by the then Committee while granting validity to Suraj (sic), we are of the firm view that indeed he was granted certificate of validity by due process of law.

8. Consequently, till the committee by taking appropriate steps is able to recall the validity granted to Suraj, the petitioners cannot be denied the advantage, *albeit*, they would have the certificate of validity conditionally.

9. The writ petitions are partly allowed. The impugned order is quashed and set aside. The respondent - committee shall immediately issue tribe validity certificate to the petitioners as belonging to 'Koli Mahadev' scheduled tribe in the prescribed format without adding anything. The validities shall be subject to the final outcome of the matters which the committee has decided to re-open.

10. The petitioners shall not be entitled to claim equities.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

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