



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6828 OF 2006

Gajendra s/o Dattatraya Pandhare
Age : 31 years, Occ.: Service
Degloor, Taluka Degloor, District Nanded

... PETITIONER

VERSUS

1. The State of Maharashtra
Through Its Secretary,
Tribal Development Department,
Mantralaya, Mumbai – 32
2. The Committee for Scrutiny and
Verification of Tribe Claims,
Through its Dy. Director (R)
M.S. Aurangabad
3. The Taluka Executive Magistrate,
Degloor, Taluka Degloor,
District Nanded
4. The Deputy Director,
Industrial Training Institute,
Bhadkal Gate, P.O. Box No. 77,
Aurangabad- 431001
5. The Principal,
Industrial Training Institute,
Degloor, Taluka Degloor,
District Nanded

... RESPONDENTS

CORAM : RAVINDRA V. GHUGE AND
R. M. JOSHI, JJ.

DATE : 8th MARCH, 2024

ORAL JUDGMENT (PER - RAVINDRA V. GHUGE) :-

1. By this Writ Petition, the Petitioner assails the invalidation of his claim of belonging to Mannerwarlu, Scheduled Tribe category, vide the impugned order of the Committee dated 14th September, 2006. While passing the first order on 3rd October, 2006, this Court protected the service of the Petitioner. This Petition was subsequently admitted by order dated 14th March, 2007 and the protection against termination was continued.

2. We are informed that a co-ordinate Bench of this Court has delivered a judgment on 25th August, 2023 in *Writ Petition No. 3254 of 2022 (Sairaj Suresh Pandhare Versus The State of Maharashtra and Others)* and in *Writ Petition No. 14109 of 2021 (Shreeya Gajendra Tamloorkar Versus The State of Maharashtra and Others)*. The Petitioner before us is Gajendra Dattatraya Pandhare.

3. We are informed that the biological daughter of the Petitioner namely, Shreeya Gajendra Tamloorkar (who has got her surname changed), has been granted the validity as noted above. Sairaj is the son of Suresh Pandhare. The Petitioner Gajendra before us, is the son of Dattatraya Deorao Pandhare. Suresh is the son of Hanmantrao Deorao Pandhare. Hanmantrao and Dattatraya are biological brother. We are also informed by the learned Advocate for the Petitioner that Sairaj is the

second cousin brother of Shreeya.

4. We find that the case of Suresh, which was the foundation of the claims of Sairaj and Shreeya, has now been subjected to reopening of his validation case. This Court, therefore, observed in the judgment dated 25th August, 2023 that the validity certificates granted to Sairaj and Shreeya would be conditional.

5. In ***Shweta Balaji Isankar vs. The State of Maharashtra and others, Writ Petition No.5611/2018 decided on 27.07.2018***, this Court at the Principal Seat has recorded in paragraph Nos.2 to 4 and 8 as under:-

"2. On the earlier occasion, we found that though the petitioner produced credible evidence in the form of certificates of validity issued to her real uncle Govind Sambhaji Isankar and which concededly has been issued way back on 5th December 2005 and another certificate of validity dated 5th September 2006 to his cousin uncle Ramdas Sambhaji Isankar, the Committee finds that the certificate of validity issued to the real uncle Govind, is not free from suspicion. It is held by the Committee in the impugned order that a notice to show cause has been issued to said Govind on 14th September 2017, calling upon him to show cause as to why this certificate of validity should not be cancelled as its issuance is vitiated by fraud or suppression of material facts by the said Govind.

3. On such a finding being rendered by the Committee, we called upon the learned AGP on the earlier two 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 assigned in the impugned order cannot be supported in law.

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8 This order does not prevent the Committee from proceeding against Govind in accordance with law and needless to further clarify that in the event Govind's claim is invalidated, all the consequences shall be taken by the petitioner as well."

6. In *Apoorva d/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No.1 Nagpur*, [2010(6) Mh.L.J.401 : AIR 2010(6) Bom.R.21], this Court has ruled that if close blood relatives from the paternal side are granted validity certificate, validity certificates should be granted to the claimant, unless there is a serious fraud that has surfaced.

7. In view of the above, since the claim of the present Petitioner rests on the verdict in favour of his daughter Shreeya, who in turn has relied on the validity of Suresh whose case is reopened, we follow the view taken in *Shweta Balaji Isankar* (supra).

8. This **Writ Petition is partly allowed**. The impugned order is quashed and set aside and we direct the Committee to issue the validity certificate of "Mannervarlu" Scheduled Tribe, to the Petitioner within 30 days. We make it clear that this is a conditional order based on *Shweta Balaji Isankar* (cited supra). If Suresh or Shreeya or Sairaj suffer invalidation in a re-opened proceeding, the Petitioner would suffer the same consequences.

9. Rule is made absolute in the above terms.

(R. M. JOSHI, J.)

(RAVINDRA V. GHUGE, J.)

ssp