



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7508 OF 2024

Keshav S/o Gangadharrao Kachkalwad

Age : 34 years, Occu : Service,

R/o. At Post Golegaon, Tq. Umri,

Dist. Nanded

At Present : E-3, Satkar Nagar, Ring Road,

Jalna, Tq. and Dist. Jalna

.. Petitioner

Versus

1] The State of Maharashtra,

Through its Secretary,

Tribal Development Department,

Mantralaya, Mumbai – 32

2] Scheduled Tribe Certificate

Verification Committee, Kinwat

Headquarter Chhatrapati Sambhajinagar,

Through its Deputy Director (Research)

and Member Secretary,

Near CIDCO Bus Stand, Chhatrapati Sambhajinagar,

Dist. Chhatrapati Sambhajinagar

3] Divisional Joint Director of Agriculture,

Chhatrapati Sambhajinagar,

Kranti Chowk, Kotla Colony, Samta Nagar,

Chhatrapati Sambhajinagar,

Tq. and Dist. Chhatrapati Sambhajinagar

4] District Superintendent Agriculture Officer,

Jalna, Motibaugh,

Tq. and Dist. Jalna

5] Talukar Agriculture Officer, Ghansavangi,

Tq. Ghansavangi, Dist. Jalna

.. Respondents

...

Advocate for petitioner : Mr. C.R. Thorat
AGP for the respondents no. 1 to 5 : Mrs. P.J. Bharad

...

**CORAM : MANGESH S. PATIL &
PRAFULLA S. KHUBALKAR, JJ.**

DATE : 17 DECEMBER 2024

ORDER (MANGESH S. PATIL, J.) :

Heard. Rule. Rule is made returnable forthwith. Learned AGP waives service for all the respondents.

2. Petitioner is taking exception to the judgment and order of respondent no. 2, which is a Scheduled Tribe Certificate Scrutiny Committee (**Committee**), in a proceeding under section 7 of the Maharashtra Act No. XXIII of 2001, dated 24-06-2024, refusing to validate and instead confiscating and cancelling his 'Mannervarlu' scheduled tribe certificate.

3. The committee has essentially based its decision on the contrary school record of petitioner's near blood relatives, wherein they were described as 'Manurwad', 'Munarwad' and 'Munurwad'. It also noticed manipulations in the school record of some of the near blood relatives wherein the original entries in the caste column of the school registers which were 'Manurwad', were manipulated to read 'Mannervarlu'. It also referred and relied upon the revenue record of petitioner's ancestors, wherein they were described as 'Munurwad' (मुनुरवाड, मुनूरवाड). It has also drawn inference by noting the conspicuous absence of any entry in the revenue record as contemplated under section 36 and 36-A of the Maharashtra Land Revenue Code, 1966 (**MLRC**), which otherwise would appear in the

land record of a tribal land. It also applied the affinity test, holding the petitioner to have been unable to clear it successfully.

4. As far as the validities of brother – Hanmant and other two blood relatives, namely, Anil Balwan Kachkalwad, Uttam Rajendra Kachkalwad and Ku. Savita Rajaram Kachkalwad, the committee has formed an opinion that they all had obtained the certificates of validity by actively concealing the contrary school and revenue record, referred to herein-above. It has also pointed out that in the matter of Uttam Rajendra Kachkalwad, he was granted certificate of validity based on a non-existent school record of his father Rajendra Poshetti Kachkalwad, which fact was revealed in the vigilance enquiry in the petitioner's matter.

5. The scrutiny committee had sought to take exception to the validity of Hanmant Kachkalwad on the ground that he was issued with a certificate of validity by a committee of which the committee's law officer Mr. B.V. Shirurkar had worked as a member secretary, which is contrary to the composition of the committee, as laid down in the Rules of 2003 framed under the Maharashtra Act No. XXIII of 2001.

6. In respect of validity of Ku. Savita Rajaram Kachkalwad, the committee had sought to take exception to that validity on the ground that it was granted by the committee headed by one Mr. V.S. Patil, functioning of which was dubious and of which

cognizance has been taken by the State government. Thus, expressing its desire to undertake fresh scrutiny of all these validity holders, the committee has refused to validate the petitioner's 'Mannervarlu' scheduled tribe certificate.

7. Learned advocate for the petitioner submits that no sound and convincing reasons have been assigned by the committee to discard the earlier three validities. Though it has formed an opinion about the validity holders having practised fraud, till the time it is able to confiscate and cancel those certificates of validity, there being no dispute about the petitioner being related to them by blood from the paternal side, he is entitled to be treated equally. He is ready to run the risk of facing the consequences as contemplated in ***Shweta Balaji Isankar Vs. State of Maharashtra and others* (writ petition no. 6320 of 2017)** and ***Chairman and Managing Director, Food Corporation of India and others Vs. Jagdish Balaram Bahira and others; (2017) 8 SCC 670***.

8. Learned advocate Mr. Thorat would further submit that the committee does not have power to undertake review. The division benches of this Court have consistently held that it does not have the power to undertake a review, in the matter of ***Rakesh Bimashankar Umbarje and others Vs. State of Maharashtra and others; 2024(1) Bom.C.R. 294 (Bharat Nagu Garud Vs. State of Maharashtra and***

others; 2024(1) Mh.L.J. 647 and Anil S/o Shivram Bandawar Vs. District Caste Certificate Verification Committee, Gadchiroli and another; 2021(5) Mh.L.J. 345) and the issue is pending before the Supreme Court in the matter of ***Rakesh Bimashankar Umbarje***.

9. Independently, Mr. Thorat submitted that the approach of the committee in appreciating the evidence, is faulty. It has based its inferences on surmises and conjectures, without actually verifying the school record. It has relied upon the subjective observation of the vigilance officer who conducted the enquiry. The decision is arbitrary and perverse and may be reversed.

10. Learned AGP strongly opposed the petition. He submitted that the committee has assigned cogent and convincing reasons. Inference drawn by it is based on plausible appreciation, which is not open for judicial review in exercise of the powers under Article 226 of the Constitution of India. She would submit that even if it does not have the statutory power to undertake review of the orders passed by its predecessor, since fraud vitiates every solemn act, the committee being a *quasi* judicial authority, has inherent power and jurisdiction to undertake scrutiny of certificates of validity issued to the petitioner's blood relatives.

11. We have considered the rival submissions and perused the papers.

12. Obviously, this being a petition under Article 226 of the Constitution of India, this Court cannot substitute its views in place of that of the committee, however, it does have the power and competence to examine whether the judgment and order under challenge is perverse and arbitrary. If the decision of the committee is based on plausible appreciation of the material before it, this Court would be loath in causing interference.

13. As far as the alleged manipulation in the school record is concerned, it would be a matter of fact. Since the committee has already resolved to undertake fresh scrutiny of all the validities issued, since the validity holders are not before us, we cannot undertake objective scrutiny of the inferences drawn by the committee to reach the inference of alleged fraud perpetrated by them.

14. The fact remains that admittedly, there are validity holders in the family, who have been issued with certificates of validity by following due process of law and by reasoned orders. Even if one of the validities was granted by the committee headed by one Mr. V.S. Patil, same is not the case with the other two validities. Even the stand of the committee in the impugned judgment seeking to take exception

to the validity of one of the validity holders on the ground of composition of the scrutiny committee, wherein a law officer of the committee has acted as a member secretary, since as per Rule 9 of the Rules of 2003, the decision of the committee has to be by majority, even participation of law officer as a member of the committee would not go to the root of the jurisdiction of the committee, when two other members had concurred while issuing the validity.

15. As far as the power and jurisdiction of the committee to undertake a review is concerned, admittedly, the issue is sub-judice before the Supreme Court in the matter of **Rakesh Bimashankar Umbarje**. We, therefore, cannot embark upon any enquiry into the legal aspect as to the power of the committee to undertake re-scrutiny of the validities granted by its predecessor.

16. In the light of above, the petitioner is entitled to have a certificate of validity with usual conditions.

17. Writ petition is partly allowed.

18. The impugned order is quashed and set aside.

19. The respondent - committee shall immediately issue tribe validity certificate to the petitioner as belonging to 'Mannervarlu' scheduled tribe in the prescribed format without adding anything. The

validity shall be subject to the final outcome of the matters of the validity holders which the committee has decided to re-open.

20. The petitioner shall not be entitled to claim equities.

21. Rule is made absolute accordingly.

[PRAFULLA S. KHUBALKAR]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/