



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.7720 OF 2024

Yash Shrinivas Satelikar
through natural Guardian father
Shrinivas Ashanna Satelikar ... PETITIONER

VERSUS

1. State of Maharashtra
through the Principal Secretary
Development of Tribal Department
Mumbai
2. The Scheduled Tribe Certificate
Scrutiny Committee, Kinwat
Headquarter at Chhatrapati Sambhajinagar
N-1,CIDCO, Aurangabad 431003 ... RESPONDENTS

...
Advocate for petitioner : Mr. Anand Chawre
Addl.G.P. for Respondent Nos.1 and 2 : Mr. P.S. Patil
...

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

Reserved on : 25.07.2024
Pronounced on : 26.07.2024

ORDER (PER : MANGESH S. PATIL, J.) :

This is a petition under Article 226 of the Constitution of India, read with section 7(2) of the Maharashtra Act XXIII of 2001, challenging the order of respondent No.2 which is a Scheduled Tribe Certificate Scrutiny Committee, constituted under that Act, thereby, refusing to validate petitioner's tribe certificate of 'Mannervarlu'

scheduled tribe and directing its confiscation and cancellation.

2. Rule. Rule is made returnable forthwith. At the joint request of the parties, the matter is heard finally at the stage of admission in view of the exigency being pointed out by the petitioner for securing admission through JEE (Main) 2024.

3. The learned advocate Mr. Chawre for the petitioner would advert our attention to the genealogy. He would submit that the petitioner's father and two paternal uncles Rajeshwar and Prakash possess certificates of validity. Those were issued by following due process of law. Even if the committee has now formed an opinion about these persons having resorted to fraud in obtaining the certificates of validity and also expresses in the impugned order its intention to undertake a process for recalling the certificates of validity issued to them, till the time those are valid the petitioner need not be deprived of deriving the benefit. He would rely upon the decision in the matter of **Apoorva d/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No.1 and Ors.; 2010 (6) Mh.L.J. 401.**

4. Mr. Chawre would submit that independent of the validities in the family even there was sufficient material before the committee substantiating petitioner's claim. For no valid reasons it has been discarded. Few contrary entries could not have been allowed to outweigh the favourable record. The appreciation of the material by the committee is perverse and arbitrary. It may be set aside and reversed.

5. Mr. Chawre would then submit that even it was the same stand of the committee, when a similar invalidation was challenged by petitioner's first degree cousin Shruti who is daughter of his paternal uncle; validity holder Prakash. She had challenged such invalidation in Writ Petition No.7505/2018 and a coordinate division bench of this Court (Principal Seat) had held her entitled to have a certificate of validity. It was made conditional on the specific and a similar stand of the respondent - Scrutiny Committee that it was issuing show cause notices to Rajeshwar and Prakash for recalling their certificates, having been obtained by practising fraud. He would submit that since 23.07.2018 when Shruti's writ petition was allowed, no tangible steps have been taken by the committee for recalling the certificates of these two individuals. If really the committee intended to substantiate its allegation about fraud, it was imperative for it to have undertaken the scrutiny in an emergent manner. On the one hand, it is not ready to extend the benefit of the validities on the ground that they had practised fraud and on the other hand, the committee has not been able to recall their certificates of validity.

6. Mr. Chawre would, therefore, submit that since the petitioner is about to get admission in an IIT, when he is ready to face the consequences of invalidation of the certificates of validity of Rajeshwar, Prakash and even his father, he deserves to be granted a certificate of validity, subject to usual conditions.

7. Learned AGP Mr. Patil would strongly oppose the petition. He would submit that the petitioner's family has resorted to fraud as has been demonstrated in the impugned judgment and order. By referring to the principles laid down in **the Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and Ors.;2023 SCC Online SC 326**, the learned AGP would submit that the petitioner is not entitled to have a certificate of validity even subject to usual conditions.

8. He would submit that in fact, the tribe certificates of Rajeshwar and Prakash were already confiscated and cancelled long back in the year 1986 and 1988 respectively. The decisions were confirmed. However, somehow they could manage to obtain fresh tribe certificates and could get those validated based on order of validation of petitioner's father. This is a clear fraud practiced by both Rajeshwar and Prakash and the petitioner cannot be allowed to derive the benefit of such validities obtained by them. He would submit that in the matter of **Chaitanya D/o Sanjay Palekar; (W.P. No.8531/2022)** dated 24.07.2023, in somewhat similar set of facts, this Court had refused to reverse a similar order of the scrutiny committee invalidating the tribe claim of the petitioner therein.

9. Mr. Patil would then submit that apart from such drastic circumstance of fraud, even petitioner's father can also be attributed with fraud inasmuch as he should have but had not disclosed such earlier invalidities of Rajeshwar and Prakash. Mr. Patil would also submit that

even a forged school record of Rajeshwar was not considered while granting him certificate of validity. He would advert our attention to the photocopy of the school register which according to him and the committee is *ex facie* forged one. There were rampant manipulations even in other record as mentioned in the impugned judgment and order. He would submit that in spite of such manipulated record of older times, clearly demonstrating that Rajeshwar was described as Munurwad, a false claim of 'Mannervarlu' was made by manipulating record and therefore when petitioner's father Shrinivas has also obtained a certificate of validity by resorting to a patent fraud, its benefit cannot be extended to the petitioner.

10. Mr. Chawre would counter the stand of the committee and that of the learned AGP as regards the fraud practised by Rajeshwar and Prakash by stating that the petitioner and his father had no knowledge about earlier invalidations of Rajeshwar and Prakash. The observation and conclusion of the committee is devoid of any material to demonstrate that they were having the knowledge of invalidation. He would submit that though Prakash and Rajeshwar are the real brothers of petitioner's father they are not in good terms and there was no occasion for the petitioner and his father to know about such earlier invalidation.

11. Mr. Chawre would further refer to the decision of this Court in the matter of **Anmol s/o Jayprakash Perke Vs. The State of Maharashtra and Ors.; Writ Petition No.4343/2021** (Aurangabad bench)

decided on 10.10.2023. He would submit that this Court has already elaborately discussed and has held that the order of invalidation would bind only the claimant and cannot operate as *res judicata* against the blood relatives. Therefore, even if there were earlier invalidities of Rajeshwar and Prakash, that would not bind and prevent the petitioner and his father from asserting the claim and substantiating it on the basis of acceptable record.

12. We have considered the rival submissions and perused the original papers in the matter of petitioner as well as his father Shrinivas. So far as the right of a blood relative to derive the benefit of validity in the family it has now been crystallized in the form of observations of the larger bench judgment in the matter of **Maharashtra Adiwasi Thakur Jamat** (supra). Paragraph No.22 therein 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.”

13. These observations would clearly demonstrate that a blood relative would be entitled to derive the benefit of validity in the family on satisfying following conditions :

- a. There is no dispute about the blood relationship.
- b. The certificate of validity must have been issued by following due process of law.
- c. Recording of reasons in the order granting certificate of validity.

14. In our considered view, apart from the aforementioned parameters which are *sine qua non* for extending benefit of a validity to a blood relative, there could be one more circumstance where the certificate of validity has been issued to a blood relative labouring under fraud. In other words, if fraud vitiates the certificate of validity, its benefit cannot be extended to a blood relative. The instance of this kind can be

found in decision of a division bench of this Court to which one of us was a party (Mangesh S. Patil, J.) in the matter of **Chaitanya D/o Sanjay Palekar** (supra). In somewhat similar set of facts, the father of the petitioner therein as also petitioner's uncle both had suffered invalidation, however, still they were able to obtain fresh tribe certificates, and later on those were validated by the then scrutiny committee. Since the petitioner therein was relying upon such validities of father and paternal uncle which were obtained *ex facie* by resorting to fraud, this Court had refused to extend its benefit to the petitioner therein.

15. Bearing in mind the above state of affairs, if one examines the matter in hand, there is abundant record and even the petitioner in his petition as also in reply to the vigilance inquiry report has not disputed the fact about Rajeshwar and Prakash having earlier met with orders of invalidation and still could obtain fresh certificates and could get those certificates validated.

16. Incidentally, even the record of this Court clearly demonstrates that Rajeshwar had challenged the order of invalidation by filing W.P. No.604/1986 which was dismissed in default on 14.09.2000, whereas, Prakash had also preferred W.P. No.2831/1990 (incorrectly mentioned in the impugned order as WP No.28131/1990) and it was also dismissed as withdrawn, granting liberty to him to substantiate a claim of belonging to 'Munerwar' which is special backward class forgoing his

earlier claim of 'Mannervarlu'. In spite of such a state of affairs, it is obvious that by resorting to a patent fraud, these two individuals could manage to obtain fresh tribe certificates of 'Mannervarlu' and which were subsequently validated, obviously by the then committee which in all probability was oblivious of such earlier invalidation.

17. The stand of the petitioner and his father that they were unaware about the fraud practised by Rajeshwar and Prakash, in our considered view, is not palatable. Neither in the reply filed by the petitioner to the vigilance report nor even in the petition memo specific stand has been taken regarding absence of knowledge of the earlier invalidations of Rajeshwar and Prakash, who are in fact real brothers of petitioner's father Shrinivas. One cannot countenance such submission of the learned advocate Mr. Chawre to the effect that the petitioner and his father were not having any knowledge of the fraud practised by Rajeshwar and Prakash.

18. Incidentally, as can be seen from the order of this Court in the matter of Prakash's daughter Shruti, the fact of this fraud practised by Rajeshwar and Prakash was not revealed even to the committee which had invalidated Shruti's claim. Even it could not be brought to the notice of the division bench which directed certificate of validity to be issued to her subject to the final outcome of the proceeding that was to be resorted to by the committee for recalling the certificates of validity granted to Rajeshwar and Prakash. Precisely for this reason, in our considered view,

the petitioner is not entitled to derive the benefit of the conditional validity issued to Shruti by the order of this Court. When this Court had held her entitled to have a certificate of validity, the fraud practised by Rajeshwar and Prakash was not brought to its notice. We are quite sure that if at all it was revealed to the division bench, it would not have directed certificate of validity to be issued to her.

19. This Court has held in the matter of **Anmol s/o Jayprakash Perke** (supra), invalidities in the family *per se* would not bind the other blood relatives and would be a judgment *in personam* and not *in rem*, and would not operate as *res judicata* against the blood relatives for the simple reason that even if a family member is unable to substantiate the claim by leading cogent and convincing evidence, sufficient enough to discharge the burden under Section 8 of the Maharashtra Act XXIII of 2001, any other blood relative could succeed in tracing out some relevant and admissible evidence and accepting which the committee may have to validate the caste or tribe certificate irrespective of the earlier invalidation in the family. Therefore, merely because the petitioner had not disclosed about earlier invalidation of Rajeshwar and Prakash, that *ipso facto* cannot be resorted to discard his claim.

20. Turning to the petitioner's claim independently, as can be seen from the vigilance report and petitioner's reply to it, following birth record and school record is relied upon by the petitioner :

Sr. No.	Name of Document	Name of the document holder	Blood relation with the applicant	Caste recorded	Date of Registration
1	School Leaving Certificate	Yash Shriniwas Satelikar	Applicant	Mannervarlu	17/06/2012
2	Student Admission and Leaving Extract	Yash Shriniwas Satelikar	Applicant	Mannervarlu	17/06/2012
3	School Leaving Certificate	Yash Shriniwas Satelikar	Applicant	Mannervarlu	16/06/2017
4	Student Admission and Leaving Extract	Yash Shriniwas Satelikar	Applicant	Mannervarlu	16/06/2017
5	School Leaving Certificate	Shriniwas Asanna Satelikar	Father	Mannervarlu	17/06/1977
6	School Leaving Certificate	Shriniwas Ashenna Satelikar	Father	Mannervarlu	23/06/1982
7	Student Admission and Leaving Extract	Shriniwas Asanna Satelikar	Father	Mannervarlu	07/06/1977
8	Student Admission and Leaving Extract	Shriniwas Ashanna Satelikar	Father	Mannervarlu	01/07/1980
9	Affidavit (Validity Holder)	Shriniwas Ashanna Satelikar	Father	---	05/09/2023
10	Validity Certificate	Shriniwas Ashanna Satelikar		Mannervarlu	22/01/2007
11	School Leaving Certificate	Rajeshwar Ashanna Satelikar	Uncle	Mannervarlu	15/08/1968
12	Student Admission and Leaving Extract	Rajeshwar Ashanna Satelikar	Uncle	Mannervarlu	15/08/1968
13	Student Admission and Leaving Extract	Anushka Shriniwas Satelikar	Sister	Mannervarlu	24/06/2016

21. During vigilance inquiry, the officer could trace out school record of the petitioner's blood relatives which is also reproduced in the impugned order which, roughly translated is as under :

Sr. No.	Name of School	Admission Sr. No.	Name of the Student	Relation with the applicant	Caste Recorded	Admission Date	Remark
1.	Zilla Parishad Primary School, Barhali, Tq. Mukhed	624	Rajeshwar Hashyanna Guttedar	Uncle	Munnurvarlu	15/08/1968	In caste column, word 'lu' is added after the word 'Munurvar'.
2	Shri Gurunanak Vidya Mandir, Shivnagar, Nanded	1040	Guptewar Satelikar Rajeshwar Hashyanna Asanna	Uncle	Manurvad Manervarlu	09/09/1971	In caste column, word 'Manurvad' is encircled and word 'Mannervarlu' is written.
3	Shri Gurunanak Vidya Mandir, Shivnagar, Nanded	1499	Chandrakala Asanna Satelikar	Aunt	Mannervarlu	27/07/1972	In caste column, letter 'r' modified in different ink and word 'lu' is written in different ink.
4	Shri Gurunanak Vidya Mandir, Shivnagar, Nanded	1678	Prakashrao Ashanna Satelikar	Uncle	Mannervarlu	25/06/1974	In caste column, there is difference in ink of the handwriting.
5	Shri Gurunanak Vidya Mandir, Shivnagar, Nanded	2331	Shriniwas Asanna Satelikar	Father	Mannervarlu	17/06/1977	In caste column, letter 'na' modified in different ink and word 'lu' is written in different ink.

22. Even additional school record of Rajeshwar also could be traced as reproduced in the impugned judgment.

Sr. No.	Name of School	Admission Sr. No.	Name of the Student	Relation with the applicant	Caste Recorded	Admission Date	Remark
1.	Shri. Sharda Bhavan High School, Nanded	12025/A110	Rajeshwar Ashanna Satelikar	Uncle	Munurwad	22/06/1977	In caste column, place of caste is torn and Munurwad is written in different ink.

23. A careful examination of the aforementioned record would clearly indicate that the favourable entries substantiating the petitioner's claim are of recent origin. The second chart contains the record which the committee has castigated as contrary and also as manipulated one. The photocopies of such contrary and manipulated record is available in the original file. We have been able to crosscheck the observations of the committee in the impugned judgment and order with such photocopies. We have no manner of doubt that indeed these entries have been manipulated. In the school record of Rajeshwar serial No.624 of Zilla Parishad Parathmik Shala of Barhali, *ex facie* the original entry in the caste column was 'Munurwar' but has been subsequently forged to appear as 'Munervarlu'. The original entry at serial No.1040 of Shri Gurunanak Vidyamandir, Shivnagar, Nanded which was apparently reading entry of Rajeshwar Hashyanna Guptewar has been manipulated by rounding 'Hashyanna' and writing 'Asanna' below it and surname 'Guptewar' has been encircled and surname Satelikar has been written under it. Similarly the caste column mentioning 'Manurvad' has been encircled and word 'Manervarlu' has been written above it. Incidentally, though name of the father has been replaced in column No.2, column No.4 which contains name of the guardian still continues to be Hashyanna. We have no manner of doubt that it is a clear manipulation. Again Rajeshwar's school record of Sharda Bhavan High School, Nanded entry No.12025 of 1977

also discribed him as 'Munurwad'. It appears that there is also endorsement against entry No.1040 of Rajeshwar stating about correction having been carried out pursuant to the circular or order of the Deputy Director of Education, Aurangabad dated 09.07.1981. However, no such record/order has been produced to substantiate the fact of correction having been made under clause 26.4 of the Secondary School Code, 1977. Considering the rampant manipulations in this entry No.1040 not only in respect of the change in the caste but even in respect of change in the father's name and surname, we find no fault with the observation of the committee that this entry is dubious one and cannot be safely relied upon.

24. Taking into account the fact that all such dubious and contrary record is of the period earlier to the latter favourable entries (supra), following the principles of appreciation laid down in the matter of **Anand Vs. Committee for Scrutiny and Verification of Tribe Claims and Ors.; (2012) 1 SCC 113**, the older entries would carry greater probative value. If the earlier record was clearly demonstrative of the fact that the petitioner's paternal uncles and aunts were admitted to schools by recording their caste other than 'Mannervarlu', since 'Munurvad' and 'Manervar' which were apparently original entries, before manipulation, and are also recognized by the presidential order as independent tribes, no fault can be found with the committee's observation that these are the entries which are contrary to the petitioner's claim of belonging to

Mannervarlu scheduled tribe.

25. As a result, even if the petitioner's claim is to be considered on its own merits, independent of the allegations regarding fraud perpetrated by his two paternal uncles, there was no sufficient and cogent material to substantiate his claim of belonging to Mannervarlu scheduled tribe.

26. As far as the attempt of the petitioner to derive the benefit of validity of his father Shrinivas, as we have already indicated herein above, the material is strong enough to demonstrate that the fraud was perpetrated by Rajeshwar and Prakash who are real brothers of petitioner's father Shrinivas. Even Shrinivas himself could have but having not declared their invalidities, it is hard to believe that he was unawares about their invalidities, is sufficient to reach a conclusion as has been rightly done by the scrutiny committee that even he cannot be said to have obtained the certificate of validity cleanly. Even the aforementioned contrary entries, which are not only contrary but even there is apparent manipulation were concealed from the then committee, may be in connivance with the vigilance officer or otherwise and it cannot be said that he had obtained the certificate of validity by due process of law. Consequently, the petitioner is not entitled to derive the benefit of the validity possessed by his father Shrinivas.

27. The upshot of the above discussion, the committee has correctly appreciated the material before it in reaching conclusion about

the petitioner having misreably failed to substantiate his claim of belonging to 'Mannervarlu' scheduled tribe. Even no exception can be taken to its conclusion that petitioner cannot be extended benefit of the validity possessed by his two paternal uncles Rajeshwar and Prakash and even his father Shrinivas.

28. The Writ Petition is dismissed.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

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