



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9162 OF 2019

Janhavi D/o Satish Toatwar

.. Petitioner

Versus

1] The State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai – 32.

2] The Commissioner & Competent Authority,
Government of Maharashtra,
State Common Entrance Test Cell,
8th Floor, New Excelsior Building,
A.K. Nayak Marg, Fort,
Mumbai – 400 001

3] Deputy Director (Research)
and Member Secretary,
Scheduled Tribe Certificate
Verification Committee,
Near Saint Lawrence High School,
Town Centre, CIDCO, Aurangabad
Dist. Aurnagabad

4] The Registrar,
Shri Guru Gobind Singhji Institute
of Engineering and Technology,
Vishnupuri, Nanded

.. Respondents

AND

WRIT PETITION NO. 9157 OF 2019

Satish S/o Bhumanna Toatwar

.. Petitioner

Versus

1] The State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai – 32.

2] Deputy Director (Research)
and Member Secretary,
Scheduled Tribe Certificate

Verification Committee,
Near Saint Lawrence High School,
Town Centre, CIDCO, Aurangabad
Dist. Aurnagabad

3] The Education Officer (Primary)
Zilla Parishad, Nanded

4] Rajasthani Education Society,
Through its Secretary,
Adarsh Vidyalaya Higher Primary School,
Tilak Nagar, Nanded

.. Respondents

...
Advocate for petitioner (in both WPs) : Mr. C.R. Thorat
Addl.GP for the respondent – State : Mr. P.S. Patil
Advocate for respondent no. 2 : Mr. M.D. Narwadkar (WP/9162/2019)
Advocate for respondent no. 3 : Mr. S.B. Pulkundwar (WP/9157/2019)
Respondent no. 4 in both WPs served - absent
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**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 26 JUNE 2024

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

Heard both the sides.

2. The petitioners are impugning the common judgment and order dated 16-07-2023 whereby their tribe claims have been invalidated thereby confiscating and cancelling the certificates.

3. One of these three individuals, namely, Sagar Satish Totawar in writ petition no. 9218 of 2019 by the order dated 1 August 2019 was directed to be issued with a certificate of validity. Following is the order :-

“1. The tribe claim of the petitioner as Mannervarlu, Scheduled Tribe is invalidated.

2. Mr. Thorat, learned counsel for the petitioner submits that two real paternal uncles of the petitioner namely Sunil and Balaji are issued with the validity certificate of Mannervarlu, Scheduled Tribe. The school entry of the petitioner, his father, grandfather record caste as Mannervarlu. There are no contra entries on record. Still the committee has invalidated the tribe claim on the basis of the record of some other persons who are not related to the petitioner.

3. Mr. Patil, learned A.G.P. submits that there are contra entries on record. In the school record of grandfather of the petitioner Bhimrao (Bhumanna) caste recorded as Mannervarlu is suspicious. The same appears in the different ink. According to the learned A.G.P. the petitioner also failed in the affinity test. The show cause notices are issued to the validity holders relied by the petitioner.

4. The relationship of the petitioner and his paternal uncles Sunil and Balaji is not disputed. It is also not disputed that the Sunil and Balaji are issued with the validity certificate of Mannervarlu, Scheduled Tribe.

5. It appears that school record of the petitioner's father record caste as Mannervarlu. The vigilance was conducted at the time of issuance of validity to the Sunil wherein the entry of the grandfather of the petitioner Bhimrao (Bhumanna) of the year 1955 was also considered. In the present case, it is observed that the ink recording the caste is different. The show cause notice is already issued to the validity holders.

6. Considering the above, we pass the following order:

ORDER

- i. The impugned order is quashed and set aside.
- ii. The committee shall issue validity certificate to the petitioner of Mannervarlu, Scheduled Tribe. The same would be subject to the decision that would be taken by the committee in the proceedings that are reopened of the validity holders relied by the petitioner. In case, the validity certificates issued to the validity holders relied by the petitioner are canceled, then the petitioner would not be entitled for any equity. The present order would be limited to the extent of the petitioner. As far as the cases of other persons decided by the impugned order are concerned, the same would be considered after the proceedings of the validity holders are concluded.

7. Writ Petition is disposed of. No costs."

4. It appears that in view of the rider put by the division bench, these two petitions wherein the petitioners sail in the same boat as Sagar Satish Totawar, have been kept pending so as to enable the committee to take up and decide the matters in respect of the validity holders which the committee had already re-opened. For almost five (5) years, the committee has not been able to decide those re-opened matters.

5. Learned AGP strenuously submits that in fact, the re-opened matters were closed for orders way back in the year 2020, however, in view of the bifurcation of the committees between Aurangabad and Kinwat, the matter was lost sight of. It can be

concluded in near future provided the individuals therein / validity holders co-operate with the committee.

6. It appears that those validity holders have even impugned the process of re-opening and the show cause notice issued to them by filing writ petition no. 2376 of 2020. Interim relief was granted on 06-02-2020 which reads thus :-

“1. Issue notice before admission to the respondents. The learned Addl. G.P. waives notice for both respondents and seeks time. Stand over to 25.02.2020.

2. In the meantime the petitioners may file reply to the show cause notice. The proceeding may proceed further before the respondent No. 2. The respondent No. 2 can take decision also, however, if the decision is adverse to the interest of petitioners, same shall not be implemented till the next date.”

7. It is quite apparent from the chronology of the events that the committee has not been able to decide the reopened matters for almost 5 years. Even otherwise, the decision to be taken would be subject to the interim relief dated 06-02-2020. In view of such peculiar state-of-affairs, in our considered view, when the selfsame order has already undergone scrutiny of this order in the matter of Sagar Satish Totawar, even these two petitions can be disposed of with the same directions.

8. Writ petitions are allowed partly.

9. Impugned order is quashed and set aside.

10. The committee shall issue certificates of validity to the petitioners of 'Mannervarlu' scheduled tribe. Their validities would be subject to the final outcome of the matters which the committee has already re-opened.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/