



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8531 OF 2024

Shivaji S/o Rajendra Totawad,
Age : 29 years, Occu. Education,
R/o. Lohegaon, Taluka Biloli,
District - Nanded

.. Petitioner

Versus

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

2] Scheduled Tribe Certificate
Scrutiny Committee, Kinwat,
Head Office Chhatrapati Sambhajnagar,
Through its Member Secretary

.. Respondents

...
Advocate for petitioner : Mr. D.D. Choudhari along with Mr. S.G. Jayewar
Addl.GP for the respondent – State : Mr. P.S. Patil
...

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

DATE : 25 SEPTEMBER 2024

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

Heard both sides finally at the stage of admission.

2. The petitioner is challenging the judgment and order of respondent no. 2 - scrutiny committee, refusing to validate his 'Mannervarlu' scheduled tribe certificate.

3. Learned advocate for the petitioner submits that his cousin uncle - Sayanna Shankarrao Totawad was issued a certificate of validity in the year 2003, by following due process of law. The vigilance enquiry was conducted and a reasoned order was passed. Based on that validity, even his father was issued with a certificate of validity and so was even his brother. The committee has assigned some reasons and has decided to undertake fresh scrutiny of these validities, particularly that of Sayanna, on the ground that he had obtained validity by suppressing contrary record. The committee will have to justify such inference by undertaking suitable enquiry. It would be a long drawn process. The petitioner cannot be made to wait till the time the committee is able to take the issue to the logical end.

4. He is ready to run the risk of facing the consequences contemplated in ***Shweta Balaji Isankar Vs. State of Maharashtra and others*** (writ petition no. 6320 of 2017).

5. Per contra, learned AGP Mr. Patil would strongly oppose the petition. He would submit that the circumstances indicated in the impugned judgment are writ large to demonstrate that contrary school record of the near blood relatives was actively concealed by Sayanna while obtaining the certificate of validity. The committee has referred to four such contrary entries and no exception can be taken to the

inference drawn by the committee about he having resorted to fraud while obtaining the certificate of validity.

6. Incidentally, Mr. Patil would submit that there are four contrary school record entries for the period between 1965 and 1971 wherein petitioner's blood relatives were described as 'Munurvad', 'Munurvar' and 'Manurvar'. All the favourable entries relied upon by the petitioner are of subsequent period. The older entries would carry greater probative value and would be sufficient to discard the petitioner's claim.

7. Additionally, Mr. Patil would submit that Sayanna was granted certificate of validity by an order of the then committee relying upon validity of an individual treating him as his cousin brother. It had referred to one *Khasra Pahani Patrak*, the revenue record, which was not containing any reference to the caste much less 'Mannervarlu' and the then committee could not have issued certificate of validity on the basis of the validities of individuals not related to him by blood.

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

9. There is no dispute about the fact that Sayanna was issued a certificate of validity by following due process of law.

A vigilance enquiry was conducted. A report was submitted in detail. Supporting documents were produced including validities of some individuals and the committee had passed a reasoned order. Obviously, respondent no. 2 being a successor committee, cannot legally be allowed to sit over as an appellate authority and cannot go into the sustainability of the order holding Sayanna entitled to have a certificate of validity. For the same reasons even the submissions of Mr. Patil, learned AGP are liable to be discarded, to the extent of making an attempt to demonstrate as to how the evidence before the then committee was either not sufficient or was not admissible in evidence to grant validity.

10. The only scope for the present committee to undertake fresh scrutiny of Sayanna's validity would be to demonstrate that he had practised fraud on the then committee. Obviously, the allegation will have to be proved strictly by following due process of law. It would not be appropriate for us to undertake any scrutiny regarding the grounds / reasons assigned by the committee to draw inference about he having practised fraud. He is not a party before us and we do not intend to cause him any prejudice by undertaking objective scrutiny of the inference drawn by the committee behind his back.

11. Once having seen that Sayanna was granted certificate of validity clearly by following due process of law and by a reasoned order, and there being no dispute about he being related to the petitioner by blood, the parameters laid down in the matter of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others; 2023 SCC Online SC 326*** would stand fulfilled and the petitioner would be entitled to derive its benefit, more so, when he is ready to have the certificate with a condition of suffering the consequences as laid down in the matter of ***Shweta Balaji Isankar*** (supra).

12. The writ petition is allowed partly.

13. The impugned order is quashed and set aside.

14. The committee shall immediately issue certificate of validity to the petitioner as belonging to "Mannervarlu" scheduled tribe. It shall be co-terminus with the validity of Sayanna.

15. Petitioner shall not claim any equities.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/