



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

931 WRIT PETITION NO. 8638 OF 2024

1. SHREYAS S/O. SANJAY KUDADE
2. KIRAN S/O. PRAKASHRAO KUDADE

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for Petitioner : Mr. Thorat Chandrakant R.

AGP for Respondents : Mr. S.R. Yadav-Lonikar

...

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

DATE : 28 AUGUST 2024

PER COURT [*Shailesh P. Brahme, J.*] :

Heard both the sides finally, considering the exigency in the matter.

2. This petition is against judgment and order dated 06.08.2024 passed by the Scrutiny Committee, invalidating tribe certificates of the petitioners. The petitioners would rely on validity certificates of Shravanti and Sachin. Learned counsel for the petitioners submits that Shravanti and Sachin were issued with validity certificates by intervention of High Court. Due procedure was followed while issuing validity certificate to Pradeep who is the first validity holder. He would submit that the validity certificates issued in the family would enure to the benefit of the petitioners.

3. Learned AGP supports impugned judgment and order. He would submit that validity certificates are rightly discarded by the Scrutiny Committee, considering suppression of invalidation in the matter of Prakash Vithalrao Kudade who is the father of petitioner no. 2. It is further submitted that school record of number of relatives of the petitioners was found to be tampered with. As the invalidation of Prakash was suppressed, the validities of Pradeep and other validity holders can not be relied upon.

4. We have considered rival submissions of the parties. One of the validity holders Shravanti is the real sister of petitioner no. 1. Another validity holder Sachin is also paternal side blood relative. The relationship of the petitioners with the validity holders has not been disputed. Pradeep was the first validity holder.

5. It reveals from record that vigilance enquiry was conducted in the matter of Pradeep. The vigilance report discloses that various documents were considered in his case including old record of 1955 of his grandfather Vitthal Dhondiba Kudade. It was recorded that he withstood the affinity test. Thereafter by a speaking order, he was issued with validity certificate. Apparently, Pradeep was issued with validity certificate after following due procedure of law. Even though there was suppression of order of invalidation of Prakash, it is not a case that there was no other material on record for issuing the validity to Pradeep. In that view of the matter, we are of the considered view that validity of Pradeep would enure to the benefit of the petitioners.

6. Sachin was issued with validity certificate by order dated 18.08.2023 passed in Writ Petition No. 10018/2023. Shravanti was issued with validity certificate by order dated 17.10.2023 passed in Writ Petition No. 7767/2023. Shravanti is the real sister of petitioner no. 1. It appears from record that self same material has already been scrutinized in granting validities to family members of petitioners. If such is the case then the petitioners would be entitled to receive validity certificates.

7. Another aspect of the matter is that although there is order of invalidation in the matter of Prakash, we have already taken a view in the matter of Bankam Balaji Maldode Versus State of Maharashtra and Others, in Writ Petition No. 9047/2020 and *Pallavi Versus Scheduled Tribe Caste Certificate Scrutiny Committee*, in Writ Petition No. 6022/2017, that order of invalidation in itself would not be adverse. It is not an order in rem. Under these circumstances, the submission of the learned AGP cannot be countenanced.

8. The petitioners are ready to run the risk in view of the *Shweta Balaji Isankar Versus State of Maharashtra and others*, in Writ Petition No. 5611/2018. The impugned judgment and order is liable to be quashed and set aside. We, therefore, pass following order :

ORDER

- i. Writ Petition is allowed partly.
- ii. The impugned judgment and order dated 06.08.2024 is quashed and set aside.

iii. The Scrutiny Committee shall issue tribe validity certificates of 'Mannervarlu' scheduled tribe to the petitioners which shall be subject to outcome of reverification proposed by the Scrutiny Committee.

iv. The petitioners shall not claim equity.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]