



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 5720 OF 2019

Prajakta Karbhari Birhare .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Anandsingh S. Bayas, Advocate for the Petitioner.
Mrs. Kalpalata B. Patil Bharaswadkar, A.G.P. for the Respondent
Nos. 1 to 3.

**CORAM : MANGESH S. PATIL AND
SHAILESH P. BRAHME, JJ.
DATE : 29 JULY 2024.**

FINAL ORDER :

- . Heard. Petitioner is challenging order of invalidation.
2. Considering the exigency, learned advocate for the petitioner has circulated it for urgent hearing, that is how we have heard both the sides finally.
3. Admittedly, petitioner's father Karbhari, paternal uncle Bapu and real brother as well as other blood relatives have been extended certificates of validity by the orders of the Scrutiny Committee.
4. The Committee in the impugned judgment and order has refused to extend the benefits of these validities to the petitioner

only on the ground that some contrary entries could be traced in the vigilance enquiry conducted in the petitioner's matter and she having failed to with stand with the affidavits. It is also being pointed out that even the Committee is pursuing the validity holders of obtaining certificates of validity by resorting to fraud.

5. Indeed petitioner's uncle Bapu is first validity holder to whom certificate of validity was issued by the then Committee in the year 2002. Petitioner's father was granted certificate of validity in the year 2003.

6. Applying the parameters laid down by the Supreme Court in the matter of Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others, 2023 SCC Online SC 326, though not in the case of Bapurao, petitioner's father's file clearly indicates that he was granted certificate of validity by following due process of law. Vigilance enquiry was resorted to, reply of petitioner's father to the report was solicited and by a speaking order he was held entitled to have certificate of validity. For the reasons best known to the Committee, the impugned judgment there is not even a whisper about the validity possessed by the petitioner's father Karbhari.

7. True it is that in an appropriate case, if it can be established that the person possessing certificate of validity has resorted to fraud, which vitiates every solemn act, the benefit of

validity possessed by such individual cannot be extended to the blood relatives.

8. However, simultaneously it is also imperative that serious allegations of fraud are to be proved strictly by resorting to due process of law. Till the time certificates of validity are not confiscated and cancelled the blood relatives cannot be prevented from deriving its benefit if the parameters laid down in the matter of Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others (supra) are fulfilled.

9. The present matter squarely demonstrates that the petitioner's father was issued with the validity certificate by following due process of law. Till the time his certificate is not confiscated and cancelled, the petitioner cannot be deprived to the same social status, more so when the petitioner is ready to face the consequences as contemplated in the matter of **Shweta Balaji Isankar Vs. The State of Maharashtra and others** judgment dated 27 July 2018 in W. P. No. 5611 of 2018.

10. The writ petition is allowed partly. The impugned judgment and order dated 04.08.2018 passed by the respondent/Scrutiny Committee is quashed and set aside. The respondent/Scrutiny Committee shall issue certificate of validity to the petitioner immediately of 'Koli Mahadev' (Scheduled Tribe) in the prescribed proforma without adding anything. Its validity shall be subject to the final outcome of the matters of the validity

holders which the committee has decided to reopen. The petitioner shall not be entitled to claim equities.

[SHAILESH P. BRAHME, J.] [MANGESH S. PATIL, J.]

bsb/July 24