



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

950 WRIT PETITION NO. 8894 OF 2024

SHREYA LINGANNA UMRIWAD
VERSUS
STATE OF MAHARASHTRA THROUGH AND ANOTHER

...
Advocate for Petitioner : Mr. R.K. Mendadkar
and Mr. Vijay Gangalwad
AGP for Respondents : Mr. V.M. Chate
...

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

DATE : 22 AUGUST 2024

PER COURT :

We have heard both the sides finally at the stage of admission since petitioner is in urgent need of validity certificate to secure admission in NEET-2024.

2. The petitioner is challenging the order of respondent no. 2 – Scrutiny Committee, whereby, it has refused to validate her ‘Mannervarlu’ scheduled tribe certificate.

3. Learned Advocate for the petitioner would submit that the petitioner’s father and real uncles possess certificates of validity which were issued by following due process of law and relying upon the observations in paragraph no. 22 of *Maharashtra*

Adiwasi Thakur Jamat Swarakshan Samiti Versus State of Maharashtra and others, **2023 SCC Online SC 326**, the petitioner is entitled to have a certificate of validity.

4. Learned Advocate would further submit that though the Committee has mentioned in the impugned order about petitioner's uncle Sainath and paternal aunt Sunita having obtained certificates of validity by practising fraud, it has not discussed and assigned sufficient and cogent reasons why independently she cannot derive the benefit of validity possessed by her father Linganna and uncles Balaji and Vyankat. He would submit that the Committee has merely discarded father Linganna's validity by questioning composition of the Scrutiny Committee since one of its members was not eligible and competent to be a part of the Committee. He would submit that in light of Rule 9 of the Rules of 2003 framed under the Maharashtra Act XXIII of 2001, when a decision of the Scrutiny Committee can be by majority, incompetence of only one of the three members would not invalidate the proceedings. He would submit that independently, the Committee ought to have considered how Linganna was granted certificate of validity and so were Balaji and

Vyankat. The petitioner is ready to face the consequences as contemplated in *Shweta Balaji Isankar Versus State of Maharashtra and others*, Writ Petition No. 5611/2018, and may be issued with certificate of validity co-terminus with the validities which the Committee has decided to re-open.

5. Learned Advocate would further submit that a pre-constitutional record of 1344 Fasli was not even scrutinized by the Committee in spite of the fact that it was produced on the record. He would, therefore, submit that petition may be allowed partly.

6. Learned AGP by referring to the original files of the respondent no. 2 – Scrutiny Committee, would oppose the petition.

7. He would advert our attention to the fact that petitioner's paternal uncle Sainath and aunt Sunita have *ex facie* resorted to fraud. By concealing their earlier invalidation, they could obtain fresh certificates and got those validated. Based on these subsequent validities, petitioner's father Linganna and uncle Balaji obtained the validity certificates. This being a glaring fraud and since based on the validities of Sainath and Sunita which are

void *ab initio*, petitioner's father and uncle Balaji were issued with certificates of validity, allowing the petitioner to derive its benefit would be allowing the fraud perpetrated by the family members to derive the benefit of reservation, to perpetuate. Therefore, the petitioner shall not be granted certificate of validity even conditionally.

8. Learned AGP would further point out that though the Fasli record of pre-constitutional period was produced before the Committee, the petitioner voluntarily waived her right to rely upon it by expressly submitting her say in writing. A specific reference to it can also be found in the roznama which bears her signature and signature of her parents. He would, therefore, submit that the petitioner is not entitled to now bank upon that document to substantiate the claim.

9. Lastly, the learned AGP would refer to the decisions of this Court in the matters of *Chiatanya Sanjay Palekar Versus The State of Maharashtra and others*, in Writ Petition No. 8531/2022 and *Yash Shrinivas Satelkar Versus State of Maharashtra and Another*, in Writ Petition No. 7720/2024.

10. We have considered rival submissions and perused the papers. This is yet another instance akin to what we had occasion to consider in the matter of *Chaitanya Sanjay Palekar* (supra), with the only difference that in the matter of Chaitanya his father himself had faced invalidation but could manage to obtain another tribe certificate and got it validated. We had expressly refused to extend the benefit of such dubious validity certificate of the father. As can be seen, in the present matter, the only difference is that instead of father, it is the uncle and the aunt who had *ex facie* resorted to fraud and forgery in obtaining certificates of validity. Even if, the learned Advocate for the petitioner is taking a specious stand of lack of knowledge of the invalidities faced by uncle Sainath and aunt Sunita, we are not ready to accept it. It is a feigned ignorance. It is highly improbable and, therefore, unbelievable that though the petitioner's father and uncle Balaji could rely upon validity of Sainath who is their real brother but they have been oblivious of the fraud practised by him. We cannot allow such fraud to be further taken benefit of by conceding the request of the petitioner to have a conditional validity making it co-terminus with the matter to be reopened by the Committee.

11. As can be seen from the order passed in the matter of Balaji, the only ground on the basis of which he was held entitled to have a certificate of validity, was the validity of Sainath and his affidavit in support thereof. In the matter of petitioner's father Linganna though Sainath was not directly relied upon, he was granted validity solely banking upon the validity of Balaji.

12. This boils down to the fact that the entire family has been involved in rank fraud and which needs to be nipped at the bud. We are making such harsh comment being prompted by the request of the learned Advocate for the petitioner, on the basis of the instructions of the petitioner's father who is present in the Court, for remanding the matter to the Committee for taking decision afresh. In the normal course, the request being innocuous could have been accepted, but not in view of peculiar state of affairs discussed herein above.

13. The two individuals Sainath and Sunita had faced invalidation, still, could manage to obtain certificates of validity by again applying and getting fresh tribe certificates and relying upon such void validities, the other brothers could manage to have similar certificates of validity. The petitioner is now from the next

generation. Though, we have been directing certificate of validity to be issued even conditionally, in view of the fact that the matters which the Committee decides to reopen would take its own time to reach conclusion and that cannot happen at the cost of the career of the next generation, however, as we have done in the matter of *Chaitanya Sanjay Palekar* (supra), we are not inclined to remand the matter to the Committee.

14. Faced with the situation, learned Advocate for the petitioner would, on instructions, seeks leave to withdraw the petition. However, we cannot be a part of the fraud being practised by the family by allowing all the aforementioned things to go unnoticed. For that reason, even we are not inclined and expressly refuse the leave for withdrawal of the petition.

15. The petition is dismissed.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]