



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9539 OF 2024

Vaishnavi D/o Virbhadra Potalwad,
Age 19 years, Occu. Education,
R/o Mukhed, Taluka Mukhed,
Dist. Nanded

... Petitioner

VERSUS

The State of Maharashtra
Through Secretary and another

... Respondents

...
Advocate for the Petitioners : Mr. D.D. Choudhari and Mr. V.G. Gangalwad
A.G.P. for the Respondents/State : Mr. V.M. Jaware
...

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

DATE : 4 SEPTEMBER 2024

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

The petitioner is challenging the order of invalidation.

2. We have heard both the sides finally at the stage of admission in view of the urgency being demonstrated.

3. Learned advocate for the petitioner submits that the petitioner's father possesses a certificate of validity issued to him by following due process of law, in the year 2011. Though the petitioner was not referring to, still the committee, on its own, has also examined the validity issued to one Bhimrao Vitthal Potalwad, who is remotely related to the petitioner by blood. He would submit that both of them

were issued with validity certificates after conducting vigilance enquiry and by a reasoned order. Till the time their certificates of validity are not confiscated and cancelled, those would enure to the benefit of the petitioner. The petitioner is ready to run the risk as contemplated in ***Shweta Balaji Isankar Vs. State of Maharashtra and others* (writ petition no. 6320 of 2017)** and she may be issued with certificate of validity.

4. Learned advocate would also submit that even petitioner's blood relative Naresh Vyankat Potalwad has been issued with certificate of validity but again, by following due process of law and by a reasoned order. He would submit that 1948 school record of one Ram Gangaram Potalwad was inspected by the then committee before issuing him certificate of validity. He would submit that even affinity test was applied to him and in accordance with the opinion of the Research Officer, he could demonstrate that they were following the traits and characteristics of 'Mannervarlu' scheduled tribe.

5. Per contra, learned AGP submits that though the petitioner's father and Bhimrao were granted validities, those were obtained by concealing contrary record of the older times. Since it is a matter of fraud, the committee has decided to re-open their validities. The petitioner cannot claim to derive the benefit of fraud practiced by her father and the other blood relative.

6. We have considered the rival submissions and perused the original file of petitioner's father – Virbhadra as also that of Bhimrao. We have no manner of doubt after going through those files that they were issued certificates of validity by following due process of law *albeit* the committee now intends to take exception on the ground of alleged fraud. The fact remains that vigilance enquiries were conducted and by reasoned orders, they were held entitled to have certificates of validity.

7. Over and above, petitioner's real cousin Naresh Vyankat has also obtained certificate of validity. A separate vigilance enquiry was conducted in his matter. 1948 school record of Ram Gangaram Potalwad was relied upon. Even the affinity test was applied. He could successfully get through it and was held entitled to have a certificate of validity. The committee has not referred to his validity in the impugned judgment and order. He was apparently issued a certificate of validity also by following due process of law and would enure to the petitioner's benefit in the light of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others; 2023 SCC Online SC 326.***

8. The writ petition is partly allowed. The impugned order is quashed and set aside.

9. Though it is almost 4:30 pm, the petitioner having been allotted a college at Sangli and is supposed to file the certificate of validity latest by tomorrow, we request the respondent – committee, to issue the certificate of validity during the course of the day as belonging to 'Mannervarlu' scheduled tribe in the prescribed format. The validity shall be subject to the final outcome of the matters which the committee has decided to re-open.

10. The petitioner shall not claim equities.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/