



(1)

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

WRIT PETITION NO.9608 OF 2024

Yogesh s/o Vitthalrao Nagamwad,
Age: 35 years, Occu: Service (Junior Clerk),
R/o. At. Post. Ambulga Bk., Tq. Mukhed,
Dist. Nanded
At present R/o. : A-304, Plot No.57,
Shrikrishna Balaji Society, Sector – 34
Kamothe, Navi Mumbai

....PETITIONER

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Town Planning Department,
Mantralaya, Mumbai-32
2. City and Industrial Development
Corporation of Maharashtra Ltd.,
Through the Vice Chairman and
Managing Director, CIDCO Bhavan,
CBD Belapur, Navi Mumbai
3. City and Industrial Development
Corporation of Maharashtra Ltd.,
Through its General Manager (Personnel),
CIDCO Bhavan, CBD Belapur,
Navi Mumbai
4. Deputy Director (Research)
and Member Secretary,
Scheduled Tribe Certificate
Verification Committee, Kinwat,
Headquarter Chhatrapati Sambhajinagar,
Near CIDCO Bus Stand,
Chhatrapati Sambhajinagar,
Dist. Chhatrapati Sambhajinagar

....RESPONDENTS

....

(2)

Mr C. R. Thorat, Advocate for Petitioner
Ms Neha Kamble, A.G.P. for Respondents/State

**CORAM : RAVINDRA V. GHUGE
AND
Y. G. KHOBRAGADE, JJ.**

DATE : 26th September, 2024

ORAL JUDGMENT (PER : Ravindra V. Ghuge, J.)

1. Rule. Rule made returnable forthwith and heard finally, by consent of the learned Advocates for the respective sides.

2. We commence the dictation of this judgment with the observation that, there are about 34 validity holders amongst the three generations of the blood relatives of the Petitioner, from the paternal sides. Relationship between the Petitioner and the said blood relatives, has not been disputed. By the order dated 23/07/2018, delivered by this Court at the Principal Seat in Writ Petition No.7532/2018 (**Samiksha Sanjay Nagamwad Vs. State of Maharashtra and others**), Samiksha was granted a validity certificate.

(3)

3. Samiksha, who is the biological sister of the validity holder Saujanya, and the daughter of validity holder Sanjay, is the first cousin niece of the Petitioner/Yogesh, who is the biological brother of Sanjay, Raju (another validity holder), Shivaji (one more validity holder) and Pralhad (yet another validity holder).

4. This Court has delivered a judgment on 09/03/2023, in Writ Petition no.2640/2023 (**Sampada Sunil Nagamwad Vs. State of Maharashtra and others**), vide which, a validity certificate has been conditionally granted to Sampada, with the observations in paragraph Nos.6, 7 and 8, as under :-

“6. In so far as contra evidence and contra entries, leading to reopening of cases is concerned, this Court has held in Shweta Balaji Isankar Vs.State of Maharashtra and others, in WP No.5611 of 2018, dated 27.07.2018 in paragraph Nos. 2 to 4 and 8 as under :-

"2. On the earlier occasion, we found that though the petitioner produced credible evidence in the form of certificates of validity issued to her real uncle Govind Sambhaji Isankar and which concededly has been issued way back on 5th December 2005 and another certificate of validity dated 5th September 2006 to his cousin uncle Ramdas Sambhaji Isankar, the Committee finds that the certificate of validity issued to the real uncle Govind, is not free from suspicion. It

(4)

is held by the Committee in the impugned order that a notice to show cause has been issued to said Govind on 14th September 2017, calling upon him to show cause as to why this certificate of validity should not be cancelled as its issuance is vitiated by fraud or suppression of material facts by the said Govind.

3. On such a finding being rendered by the Committee, we called upon the learned AGP on the earlier two occasions to produce the record. We also indicated to the learned AGP as to how the certificate of validity is denied to the petitioner though she has established her relationship with the said Govind and only on the ground that a show cause notice has been issued, but no proceedings in furtherance thereof came to be initiated till date. The learned AGP sought time to file an affidavit. Now, the Joint Commissioner, Schedule Tribe Scrutiny Committee, Aurangabad has filed an affidavit in reply. That is taken on record. The said affidavit admits that the certificate of validity has been issued to her real uncle and cousin uncle of the petitioner. The affidavit admits that the petitioner relies heavily on these two documents, but clarifies that there is a suppression detected from the original record of the certificate holder and that is how a show cause notice has been issued to Govind. The show cause notice could not be taken to its logical end on account of the huge pendency of cases before this Committee. In all, 7,000 matters were pending on the date when this Joint Commissioner took charge and he has reduced the pendency by 2500 cases being decided. In the circumstances, he says that

(5)

appropriate orders and directions be issued by this Court.

4. We are not impressed by this explanation and the justification not to proceed against a person who has perpetrated a fraud on the public. If it is a serious allegation and which is termed as fraud, then, it should have been taken to its logical end. Mere issuance of a show cause notice in the present case would not suffice for there are two certificates of validity relied upon. The only reason assigned in the impugned order to discard them, cannot be sustained. The justification in the above affidavit is also not enough to straightaway discard the certificates of validity issued in the family. It is conceded that other reasons assigned in the impugned order cannot be supported in law.

8. This order does not prevent the Committee from proceeding against Govind in accordance with law and needless to further clarify that in the event Govind's claim is invalidated, all the consequences shall be taken by the petitioner as well."

7. In view of the above and considering the Law laid down in Apporva d/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No.1 Nagpur [2010(6) Mh.L.J.401 : AIR 2010(6) Bom.R.21], this petition is partly allowed. The impugned order dated 02.09.2022 is quashed and set aside. We direct the Committee to issue a validity certificate to the Petitioner, upholding her claim of belonging to " Mannernvarlu" Scheduled Tribe Category, on or before 31.03.2023.

(6)

8. *Needless to state, in view of Shweta Balaji Isankar (supra), in case any reopened case of an earlier validated candidate on whom the petitioner has placed reliance for seeking her validity, suffers invalidation, the consequences that would visit such candidate would also befall upon the Petitioner and she would also be liable to suffer the same fate, subject to the due process of Law being followed after reopening her case.”*

5. In view of the above and considering the law laid down in **Apoorva Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No.1 and others; [2010 (6) Mh. L.J. 401]** and **Shweta Balaji Isankar vs. The State of Maharashtra and others, 2018 SCC OnLine Bom 10363**, and in the light of the pronouncement of the Hon’ble Supreme Court in **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others, [AIR 2023 Supreme Court 1657]**, this Writ Petition is partly allowed.

6. The Petitioner shall be granted the ‘Mannervarlu’ Scheduled Tribe category validity Certificate within a period of 30 days from today. If the Model Code of Conduct is introduced, that would not be a ground for not complying with these

(7)

directions. Needless to state, the observations in paragraph No.8, reproduced above from the judgment delivered in the case of **Sampada Sunil Nagamwad (supra)**, would be squarely applicable to the Petitioner.

7. Rule is made partly absolute in the above terms.

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)

sjk