



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9598 OF 2024

Bhagyashri Venkat Gopulwad
Aged 19 years, residing at Aurala
Tal. Naigaon, Dist. Nanded

... Petitioner

VERSUS

The State of Maharashtra
Through Secretary and others

... Respondents

...
Advocate for the Petitioner : Mr. Vijay G. Gangalwad and Mr. R.K. Mendadkar
and Ms. Komal Gaikwad

A.G.P. for the Respondents/State : Mrs. P.J. Bharad

...

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

DATE : 4 SEPTEMBER 2024

ORAL ORDER (SHAILESH P. BRAHME, J.) :

Heard both sides finally, considering the urgency.

2. The petitioner is aggrieved by the judgment and order dated 02-09-2024 invalidating her tribe certificate for scheduled tribe 'Mannervarlu'.

3. Learned counsel appearing for the petitioner relies on the validity certificate issued in pursuance of the orders passed by the High Court to Yogesh, Sainath, Vinayak, Rushikesh and Shivaji. He would submit that all these orders are placed on record along with the genealogy. When the selfsame record has already been considered,

the committee could not have discriminated the petitioner. In view of law laid down by the Supreme Court in ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others; 2023 SCC Online SC 326***, he would submit that the validities would enure to the benefit of the petitioner.

4. It is further contended that the petitioner is ready to run the risk in view of ***Shweta Balaji Isankar Vs. State of Maharashtra and others (writ petition no. 6320 of 2017)*** and, therefore, he is entitled to receive the validity certificate conditionally.

5. Learned AGP supports the impugned judgment and order. He submits that the committee has rightly discarded the validity certificate of the blood relatives of the petitioner. It is submitted that tribe claim of real uncle of petitioner, namely, Nagnath Mallaji Gopulwad was rejected and it was even confirmed by the High Court which was suppressed by petitioner and other validity holders. It is further contended that even Nagnath is not shown in the genealogy which would amount to fraud. It is further contended that the committee has taken a plausible view in rejecting the tribe claim of the petitioner.

6. We have considered the submissions of both sides. We have gone through the genealogy which is placed on record by the

petitioner. There is no dispute that petitioner's real uncle Shivaji Mallaji Gopulwad and Hanumant Mallaji Gopulwad are the validity holders. Besides that her cousin – Vina, Vijaya, Vinayak, Yogesh and Rushikesh also hold the validity certificates.

7. Our attention is invited to order passed by the High Court on 10-02-2022 in the matter of Yogesh in writ petition no. 1523 of 2022 directing the committee to issue him validity certificate. Similarly, Rushikesh and Shivaji were issued with validity certificates by High Court vide order dated 17-07-2023, in writ petition no. 2741 of 2022. Sainath was issued with validity certificate by our bench vide order dated 07-08-2023, in writ petition no. 9528 of 2023. Vinayak Hanmantrao was also issued with validity certificate by co-ordinate bench vide order dated 05-09-2019, in writ petition no. 10557 of 2019.

8. It is apparent that selfsame record has been considered not only by the committee but by High Court on different occasion, while granting validity certificates to the close blood relatives of the petitioner. We are of the considered view that these validity certificates were issued in accordance with law. In view of the law laid down by the Supreme Court in ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others; 2023 SCC Online SC 326***, the petitioner's claim is corroborated.

9. Learned counsel for the petitioner has adverted our attention to the order passed on 19-07-2024 in writ petition no. 7502 of 2024 filed by present petitioner when her claim was pending awaiting the decision. We had directed the committee to take into account the orders passed by the High Court in the matter of Shivaji Mallaji Gopulwad and his son Rushikesh in writ petition no. 2741 of 2022 dated 17-07-2023. Surprisingly, no endeavour has been made by the committee to refer to the orders passed by the High Court. This conduct of the committee would indicate that the matter has not been considered in proper perspective and overlooking the relevant material, the claim has been rejected, which according to us, is perversity.

10. Learned AGP invited our attention to order of invalidation passed in the matter of Nagnath and it is vehemently argued that Nagnath is the real uncle who is not even shown in the genealogy. We have consistently held in the matter of ***Pallavi Versus Scheduled Tribe Certificate Scrutiny Committee*** (writ petition no. 6022 of 2017) and ***Bankam Balaji Maldode V. State of Maharashtra and others*** (writ petition no. 9047 of 2020) that order of invalidation is order in *persona*. It cannot be treated to be adverse. Though there is no reference to the order of invalidation of Nagnath and his name in the genealogy, that would be inconsequential, for the present purpose.

11. The committee has issued show cause notice to the earlier validity holders. The committee would be at liberty to consider the incompatible school record which is pointed out by learned AGP. Unless the earlier certificates of validity are revoked, the petitioner cannot be deprived of same social status. She cannot be made to wait till the outcome of the re-verification. She is ready to run the risk as contemplated in ***Shweta Balaji Isankar Vs. State of Maharashtra and others*** (writ petition no. 6320 of 2017). We find that the petitioner deserves to be issued with validity certificate conditionally. We, therefore, pass the following order :

ORDER

- I) The writ petition is partly allowed. The impugned order is quashed and set aside. The committee shall issue tribe validity certificate to petitioner, immediately. The certificate of validity shall be co-terminus with the validity certificates of earlier validity holders.
- II) Though it is almost 5:00 pm, the petitioner having been allotted a college 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.
- III) The petitioner shall not claim equities.

[**SHAILESH P. BRAHME**]
JUDGE

arp/

[**MANGESH S. PATIL**]
JUDGE