



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

39 WRIT PETITION NO. 9848 OF 2024

SAKSHI NAGORAO KAWDEWAR

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for Petitioner : Mr. Thorat Chandrakant R.

AGP for Respondents : Mr. P.S. Patil

...

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

DATE : 23 SEPTEMBER 2024

PER COURT :

The petitioner is challenging the order of invalidation passed by respondent no. 2 – Scrutiny Committee in the proceeding under the Maharashtra Act No. XXIII of 2001, thereby refusing her validity of ‘Mannervarlu’ scheduled tribe certificate.

2. We have heard both the sides extensively on the last date as also today.

3. At the outset, it is necessary to observe that pursuant to the doubt being entertained by learned AGP touching the blood relationship of the petitioner with the validity holders Dattahari Rajaram Kaudewar, learned Advocate for the petitioner tenders across the bar a copy of the affidavit duly sworn by him giving the genealogy and expressly mentioning the petitioner to be his blood relative.

4. This apart, irrespective of the doubt being entertained by the learned AGP, the impugned judgment does not entertained any doubt and rather refers to a validity of one Yellappa Vitthal Kaudewar on its own. There is no dispute about the fact that Yellappa happens to be the second degree cousin of Dattahari. Meaning thereby, that the Committee has not entertained any doubt about these two individuals holding the certificates of validity to be related to the petitioner by blood from the paternal side.

5. Over and above, as is being pointed out, the Committee has also referred to the record of the individuals from the branch of Dattahari and Yellappa.

6. Admittedly, apart from these two individuals, one Snehal Gangadhar, Saurabh Dattahari and Parth Dattahari stated to be the descendants of the common ancestor Rajappa and Dattahari and Yellappa also being descendants of same Rajappa, even the validities possessed by these three other individuals would enure to the petitioner's benefit.

7. Pertinently Snehal was held entitled to have a certificate of validity by the order of this Court in Writ Petition No. 9059/2019 dated 20 August 2019 (Principal Seat). Similarly, Parth and Saurabh were also issued with the certificates of validity pursuant to the orders of this Court in their respective matters. It is in the light of these many certificates of validity in the family, when the petitioner is ready to run the risk of facing the consequences as contemplated in *Shweta Balaji Isankar Versus*

State of Maharashtra and Others, in Writ Petition No. 5611/2018, she cannot be treated differently and would be entitled to have a certificate of validity subject to usual condition.

8. Obviously, there are serious allegations about the validity holders having practiced fraud. However, the Committee will have to undertake due process of law to substantiate such inference. As it is, in spite of a conditional validity was directed to be granted to Snehal way back in August 2019, the Committee has not been able to undertake the process for recalling the earlier validities. We, therefore, pass following order :

ORDER

- i. The writ petition is allowed partly.
- ii. The impugned judgment and order dated 30.08.2024 passed by respondent no. 2 /Scrutiny Committee is quashed and set aside.
- iii. Respondent no. 2 / Scrutiny Committee shall immediately issue tribe validity certificate to the petitioner as belonging to 'Mannervarlu' scheduled tribe in the prescribed proforma.
- iv. The validity holders shall co-operate the Committee in the matter which the Committee shall re-open.
- v. The petitioner shall not claim equities.

vi. Learned AGP and the Law Officer of the Committee who are present, shall ensure that the decision is immediately communicated to the Committee.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

Thakur-Chauhan/-