



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO 9823 OF 2024

Aniket s/o Mahesh Thakur,
Age 20 years, Occ. Education,
R/o. Chaitanya Nivas, Walmiki Nagar,
Latur, Tq. & Dist. Latur.

... Petitioner

VERSUS

- 1) The State of Maharashtra,
Tribal Development Department
through its Secretary,
Mantralaya, Mumbai-400 001.
- 2) Scheduled Tribe Certificate
Scrutiny Committee, Kinwat,
Through its Member Secretary.

... Respondents

AND
WRIT PETITION NO. 14464 OF 2021

Mansi Mahesh Thakur,
Age 18 years, Occ. Education,
R/o. Chaitanya Nivas, Walmiki
Nagar, Latur, Tq. & Dist. Latur.

... Petitioner

VERSUS

- 1) State Common Entrance Test Cell,
Maharashtra, Mumbai,
Through its Commissioner and
Competent Authority.
- 2) Scheduled Tribe Certificate Scrutiny
Committee, Aurangabad, Dist.
Aurangabad, through its Member
Secretary.
- 3) Scheduled Tribe Certificate Scrutiny
Committee, Kinwat, Dist. Nanded,
presently functioning at Aurangabad.

... Respondents

...
 Advocate for Petitioners : Mr. Sagar S. Phatale
 Addl.G.P for Respondents/State : Mr. P.S. Patil

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

DATE : 06.09.2024

PER COURT :

The petitioners are siblings *inter se* and are challenging the separate judgments and orders passed in their respective matters but for identical reasons thereby refusing to validate their 'Thakur' scheduled tribe certificates.

2. Considering the exigency, since the petitioners intend to secure admission in the current admission processes, we have taken up the matter for final disposal at the admission stage.

3. The learned advocate for the petitioners would submit that the petitioners' father Mahesh and uncle Ganesh possess certificates of validity. Their cousin uncle Atmaram Bhagwan Salunke (Thakur) also possesses a certificate of validity. They were issued with certificates of validity by following due process of law. Though the committee is raising serious issue *inter alia* attributing fraud practised by the validity holders and has decided to recall the validities by undertaking a process, till the time those are not recalled, the petitioners cannot be deprived of the benefit. They are ready to run the risk of facing the consequences contemplated in *Shweta Balaji Isankar Vs. State of Maharashtra and others* (writ petition no. 6320 of 2017). Though the committee is banking on the contrary record of a blood relative Subhadra Thakar, wherein she was described as 'Maratha (Thakar)', of the year 1964, such stray and isolated contrary entry cannot outweigh the voluminous favourable record and the petition be allowed.

4. The learned A.G.P. would vehemently submit that petitioners' uncle Ganesh Dagdu Thakur, was the first validity holder, who had obtained it in the year 2001. It was not issued by following due process of law. A cyclostyled format was used, and the blanks were filled in hand. He would submit that even the certificate of validity was issued by a member of the committee Mr. Shinde without the consent of the committee, regarding which a crime was registered against Mr. Shinde. It was also issued by him after he retired from the service.

5. The learned A.G.P. would submit that the petitioners' father Mahesh was granted validity by a committee headed by Mr. V. S. Patil, functioning of which was found by the government to be questionable and the petitioners are not entitled to derive the benefit of such dubious validities.

6. We have been made available the original file of Ganesh as well as Mahesh. We could clearly notice that in both the matters vigilance enquiry was conducted, and by passing speaking orders, they were held entitled to have certificates of validity.

7. So far as functioning of Mr. V.S. Patil committee is concerned, irrespective of the stand of the present committee, may be based on the decision of the government, would not take its stand any further. The fact remains that the order passed by the committee headed by Mr. V.S. Patil has not been recalled much less by following due process of law. We do not know in what respect the functioning of that committee is being questioned. The fact remains that a vigilance enquiry was conducted in the matter of Mahesh and he was held entitled to have a certificate of validity by expressly referring to the record collected during vigilance enquiry, some of which was even a contrary record wherein the blood relatives were described as 'Thakar'. It is also a matter of record that even validity of Ganesh was considered and on that basis the petitioners' father Mahesh was granted validity.

8. So far as Ganesh's validity is concerned, his original file also reveals that a vigilance enquiry was conducted and the order was passed holding him entitled to have a certificate of validity. Though it is a matter of record that a member of the committee by name Mr. M.D. Shinde was prosecuted, we are not made available the reasons or grounds therefor. Going by the observations of the committee, the allegation was perhaps because he had issued the certificate of validity after he was superannuated. A copy of the order available in the original file clearly demonstrates that it was duly signed by all the three members of the committee, the Chairman and Director, Member Secretary and Deputy Director (R), who was Mr. Shinde and also the Member and the Research Officer. If all the three members of the committee had passed this order holding Ganesh to be entitled to have a certificate of validity, even if it is assumed that the certificate of validity was actually issued and signed by Mr. Shinde after he got retired from the service, that would not vitiate the decision of the committee. The learned A.G.P fairly concedes that certificates of validity are issued only under the signature of Member Secretary of the scrutiny committee, who was Deputy Director (R), which was the post held by Mr. Shinde. Therefore, the stand of the committee to ignore Ganesh's validity on the ground that Mr. Shinde had signed the certificate of validity after retiring from the service and not because either there was no order of the scrutiny committee or that he had even signed the order after retirement. Therefore, the committee's stand of not taking into consideration Ganesh's validity as if it is nonexistent cannot be countenanced.

9. Once having seen that Ganesh was granted validity by following due process of law and there is no dispute about he being related to the petitioners by blood rather their father Mahesh was granted validity on basis of validity of Ganesh, even they are entitled to have certificates of validity.

10. The writ petitions are partly allowed. The impugned orders are

quashed and set aside. The respondent-committees shall immediately issue tribe validity certificates to the petitioners as belonging to 'Thakur' scheduled tribe. The validities shall be co-terminus with the validities of earlier validity holders.

11. The petitioners shall not claim equities.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

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