



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9881 OF 2024

Isha Chandrakant Kantiwar

Age : 18 years, Occu. Education,

R/o. Deloor, Tq. Degloor,

Dist. Nanded

.. Petitioner

Versus

The State of Maharashtra,

Through its Secretary,

Tribal Development Department,

Mantralaya, Mumbai – 32 and another

.. Respondents

AND

WRIT PETITION NO. 9882 OF 2024

Divya Chandrakant Kantiwar

Age : 23 years, Occu. Education,

R/o. Deloor, Tq. Degloor,

Dist. Nanded

.. Petitioner

Versus

The State of Maharashtra,

Through its Secretary,

Tribal Development Department,

Mantralaya, Mumbai – 32 and another

.. Respondents

...

Advocate for petitioners in both WPs : Mr. Pratap V. Jadhavar

Addl. GP for the respondent – State : Mr. P.S. Patil

...

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

DATE : 09 SEPTEMBER 2024

JUDGMENT (MANGESH S. PATIL, J.) :

Rule. Rule made returnable forthwith. Learned AGP
waives service for the respondents.

2. The petitioners are real sisters *inter se* and are challenging similar orders passed by the respondent - scrutiny committee in their respective matters, thereby refusing to validate their 'Mannervarlu' scheduled tribe certificates. Though the orders are separate, those have been passed on the same date and by recording exactly the same reasons.

3. Considering the urgency, we are disposing of these petitions finally at the stage of admission with the concurrence of both the sides, by this common judgment and order.

4. We have heard both the sides.

5. Petitioners are relying upon the certificate of validity of their real paternal aunt - Shobha Iranna Kantiwar issued on 20-05-2008. Additionally, the committee on its own, has referred to several other individuals possessing certificates of validities by observing that they all are related to them by blood. The committee has refused to extend benefit of these validities by observing that Shobha was granted validity based on the validity of individuals not related to her by blood from paternal side. Even Swapnil Sudhakar Rao Kantiwar is similarly alleged to have obtained validity by relying upon maternal side relatives.

6. Learned advocate for the petitioners would submit that in the light of exigency, the petitioners are in urgent need of certificates of validity to secure admission in the current round and even are ready to face the consequences as contemplated in ***Shweta Balaji Isankar Vs. State of Maharashtra and others*** (writ petition no. 6320 of 2017).

7. He would submit that Shobha was granted validity by following due process of law and even if the committee has decided to re-visit her validity for the reasons mentioned in the impugned orders, so long as her validity is not confiscated and cancelled, the petitioners cannot be deprived of the benefit.

8. Per contra, learned AGP would take us through the original files of some of the validity holders including that of Shobha. He would submit that she was granted certificate of validity merely for asking. There was no documentary proof. Benefit of validities of maternal side relatives was extended. No reasoned order was passed. Her school record of 1968 was the only document relied upon by the committee. In the absence of even *iota* of material, she was held entitled to have a certificate of validity and its benefit cannot be extended to the petitioners.

9. Learned AGP would submit that based on Shobha's validity, several other individuals / family members could obtain

certificates of validity. No threadbare scrutiny was undertaken in the matters of any of the earlier validity holders. During the vigilance enquiry conducted in the present matters, it was revealed that the favourable record was of recent origin. Contrary record was of earlier point of time, having greater probative value and the committee has referred to it in great detail in the impugned order. Some record is manipulated and even several school entries could be traced wherein petitioners' blood relatives were described as 'Munurvar'. The oldest entry of 1953 of petitioners' grandfather - Maroti Santuka Kantewad of 29-12-1953, was turned out to be a forged one. The petitioners cannot be allowed to take benefit of the fraud perpetrated by their aunt - Shobha in obtaining validity.

10. We have considered the rival submissions and pursued the papers.

11. At the outset, it is necessary to observe that Shobha who happens to be petitioners' aunt is not the first validity holder. She was issued with a certificate of validity in the year 2018, whereas Swapnil Sudhakar Kantiwar referred to by the committee on its own, in the impugned order, had obtained the validity on 03-10-2015. His original file has not been made available to us. If Shobha was granted validity based on the validity of Swapnil, the committee ought to have undertaken scrutiny of the circumstances in which he was held entitled

to have a certificate of validity. The committee, in an omnibus manner, has discarded all these validities including that of Shobha and Swapnil on the ground that those were obtained by concealing contrary record which the committee has reproduced in the impugned order. It is apparent that the committee is seeking to take exception to these validities on the premise of having been obtained allegedly by resorting to fraud.

12. Needless to state that allegations of fraud are quite serious and will have to be proved to the hilt, by undertaking due process of law. When it is apparent that the then committees had issued certificates of validity by undertaking vigilance enquiry and by passing a reasoned order, may be cryptic, it cannot be said that they were not issued with certificates of validity by following due process of law.

13. Incidentally, we could notice that in the matter of Nagmani Vyankat Kantewad, the then committee had expressly opined that she could get through the affinity test which would be an additional circumstance in support of the petitioners.

14. The petitioners cannot be deprived of having the benefit of those validities which are still intact, by following the principles laid down in the matter of ***Maharashtra Adiwasi Thakur Jamat***

***Swarakshan Samiti Vs. State of Maharashtra and others; 2023
SCC Online SC 326.***

15. The writ petitions are allowed partly.

16. The impugned judgments and orders dated 06-09-2024 passed by respondent no. 2 – Scrutiny Committee are quashed and set aside.

17. Since the petitioners are required to submit the certificates of validity to secure admission within stipulated period, the respondent no. 2 – Scrutiny Committee shall immediately issue tribe validity certificates to the petitioners as belonging to 'Mannervarlu' scheduled tribe in the prescribed proforma.

18. The validities shall be co-terminus with the validity of the earlier holders.

19. The petitioners shall not claim equities.

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

21. Rule is made absolute accordingly.

[SHAILESH P. BRAHME]
JUDGE

arp/

[MANGESH S. PATIL]
JUDGE