



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10130 OF 2024

SNEHA SHANKARRAO TOTAWAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

WITH
WRIT PETITION NO. 10132 OF 2024

NIKHIL SHANKARRAO TOTAWAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioners : Mr. A.S. Golegaonkar
h/f. Mr. M.S. Golegaonkar

AGP for Respondents in WP/10130/24 : Mr. R.S. Wani

AGP for Respondents in WP/10132/24 : Mr. S.R. Yadav-Lonikar

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

DATE : 27.09.2024

PER COURT [*Shailesh P. Brahme, J.*] :

Heard both sides finally as the petitioners are students and aspire to prosecute further education on the basis of validity certificate. The petitions are taken up for final hearing.

2. Petitioners are siblings and children of validity holder Shankar Vitthal Totawar. By common judgment and order dated 20.08.2024, their tribe certificates are invalidated which is under challenge. Hence, we propose to decide both the petitions together by referring to Writ Petition No. 10130/2024.

3. The petitioners are relying on nine validity certificates issued in their family which are enlisted in paragraph no. 8 ground

no. (III). Their father and real uncles are amongst the validity holders.

4. Learned counsel for the petitioners adverts our attention to the order passed by the High Court in the matter of father in Writ Petition No. 614/1994 issuing him validity certificate. It is submitted that considering validities issued in the family and self same record has already been verified, they are entitled to receive validity certificate.

5. Learned AGP would vehemently submits that the Committee has rightly discarded the validity certificates. Petitioners' father was issued with validity certificate prior to enforcement of the Maharashtra Act No. XXIII of 2001 and that validity is not helpful to them. It is further submitted that there was suppression of orders of invalidation in the matter of Premla and Baburao. The vigilance enquiry disclosed incompatible school record as well as tampering of record which led the Committee to undertake reverification of earlier validities. Hence, it is submitted that no interference is called for in the impugned judgment and order.

6. We have considered rival submissions of the parties. The genealogy placed on record is not disputed. It can be seen that besides petitioners' father, their uncles Satish and Vijay are validity holders out of total nine validities. Petitioners' father was issued with validity certificate by order of the division bench passed in Writ Petition No. 614/1994 on 13.02.1994. Though the validity certificate and order of the High Court was prior to commencement of the Maharashtra Act No. XXIII of 2001 that would not make the validity certificate non est. The Committee

proposed to file review of the judgment of the division bench. Petitioners' father's validity have full force until it is revoked. The petitioners are entitled to derive benefit from it.

7. We find that there was vigilance report in the matter of Satish uncle of the petitioners and reasoned order for issuing him validity. He was also issued with validity certificate by following due procedure of law.

8. There were orders of invalidation of validity certificates of Premala Marotirao Totawar and Baburao Vitthal Totawar. We have taken view in the matter of *Bankam Balaji Maldode Versus State of Maharashtra and others*, in Writ Petition No. 9047/2020, that order of invalidation is order in persona and can not be treated as adverse per se. Therefore, finding recorded in this regard is unsustainable.

9. The Committee has issued show cause notices to the earlier validity holders. The incompatible school record and tampering of couple of entries can be considered by the Committee during reverification. Unless the earlier validities are revoked, the petitioners cannot be denied the same social status. They are ready to run risk in view of *Shweta Balaji Isankar Versus State of Maharashtra and Others*, in Writ Petition No. 5611/2018. We, therefore, passed following order :

ORDER

- i. Both writ petitions are allowed partly.
- ii. The common impugned judgment and order dated 20.08.2024 is quashed and set aside.

iii. The Scrutiny Committee shall issue validity certificate to the petitioners as belonging to 'Mannervarlu' scheduled tribe forthwith which shall be subject to the outcome of recalling of judgment and order dated 13.02.1994 in writ petition no. 614/1994.

iv. The petitioners shall not claim any equities.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]