



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10163 OF 2024

Ankush Hanmantrao Thakrod,
Age : 29 years, Occu : Student,
R/o : Gandhi Chawk, Biloli,
Dist. Nanded

.. Petitioner

Versus

- 1] The State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai – 32.
- 2] The Scheduled Tribe Certificate
Scrutiny Committee,
Kinwat Division, Aurangabad,
Through its Member Secretary
- 3] Sub-Divisional Officer,
Degloor, Nanded

.. Respondents

...
Advocate for petitioner : Mr. A.S. Golegaonkar
h/f. Mr. M.A. Golegaonkar
Addl. GP for the respondent – State : Mr.P.S. Patil
...

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

DATE : 19 SEPTEMBER 2024

ORDER (MANGESH S. PATIL, J.) :

By way of this petition under Article 226 of the Constitution of India, read with sub-section 2 of section 7 of the Maharashtra Act No. XXIII of 2001 (**Act**), the petitioner is taking exception to the judgment and order of the respondent no. 2 – scrutiny committee

constituted under that Act, dated 30-07-2024, refusing to validate his Mannervarlu scheduled tribe certificate.

2. The learned advocate for the petitioner would advert our attention to the genealogy furnished by the petitioner's distant cousin uncle – Laxman Gangaram Thakarwad who had submitted it in the matter of petitioner's father Hanmantrao's proposal and the tribe certificate of father was validated on 17-08-2007. There was no sufficient and cogent reason for the committee to overlook father's validity. Even if the committee has now decided to undertake review of the order whereby petitioner's father was granted certificate of validity, the petitioner can not be allowed to wait for the decision to reach finality. He is in need of certificate of validity for pursuing further studies. Since father – Hanmant was granted certificate of validity by following due process of law, he is entitled to rely upon it and the committee ought not have refused till the time it was in force. Petitioner is ready to run the risk of facing the consequences in case the committee succeeds in confiscating and cancelling father's certificate of validity as contemplated in ***Shweta Balaji Isankar Vs. State of Maharashtra and others*** (writ petition no. 6320 of 2017).

3. Learned AGP would oppose the petition. He would take us through the original files and would submit that no appropriate scrutiny was undertaken by the then committee while validating father –

Hanmant's tribe certificate. There is a serious doubt about the relationship of the petitioner's father with Laxman who was holding the validity and based on which Hanmant's tribe certificate was validated. He would therefore submit that since Hanmant was not granted certificate of validity by following due process of law, the petitioner is not entitled to derive its benefit in view of the observations in ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others; 2023 SCC Online SC 326.***

4. Independently, the learned AGP would submit that contrary school record could be traced during the vigilance enquiry which was actively concealed by petitioner's father – Hanmant while obtaining the validity and would furnish a ground for the committee to re-open the validity. The petitioner cannot be allowed to take advantage of the fraud practised by his father.

5. We have considered the rival submissions and perused the papers.

6. To begin with the stand of the committee castigating the petitioner's father of having obtained validity by practising fraud, we cannot undertake any exercise to objectively scrutinize this inference of the committee for the simple reason that it would be behind the back of the petitioner's father. Indeed, fraud is a serious allegation and has to

be established by strong evidence and the exercise can happen only by way of a full fledged process of law and would contemplate extending opportunity to him to defend these allegations. Making any observations in that regard could have a bearing on that process which we, therefore, avoid to do.

7. The fact remains that till the time the committee is able to undertake the due process of law and succeeds in confiscating and cancelling validity certificate of petitioner's father, it would remain in force and would enure to the petitioner's benefit. It would be a long drawn process and he cannot be made to wait at the cost of his career.

8. Suffice for the purpose to observe that petitioner's father – Hanmant was found entitled to have a certificate of validity at the end of due process which was preceded by a vigilance enquiry and a reasoned order. Whether the circumstances which were referred to by the then committee while holding him entitled to have a certificate of validity, were sufficient or otherwise, cannot be scrutinized much less by a successor committee, like it has done in the present matter. If and when it is able to demonstrate that he had practised fraud obviously the consequences will follow.

9. As mentioned above, only on the basis of the allegations of fraud, the validity certificate would not get vitiated.

10. Be that as it may, since Hanmant was apparently granted certificate of validity by following due process of law, following the observations in ***Maharashtra Adiwasi*** (supra), the petitioner is entitled to derive its benefit, more so, when even he is ready to run the risk of facing consequences contemplated in ***Shweta Balaji Isankar*** (supra).

11. In the result, the writ petition is allowed partly.

12. The impugned order is quashed and set aside.

13. The respondent - committee shall immediately issue tribe validity certificate to the petitioner as belonging to 'Mannervarlu' scheduled tribe. The validity shall be co-terminus with the validities of earlier validity holders.

14. The petitioner shall not claim equities.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/