



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.10216 OF 2024

Sandesh s/o Bharat Totawar ... **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**

...

Advocate for petitioner : Mr. S.S. Phatale

A.G.P. for respondent/State : Mr. V.M. Jaware

...

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

DATE : 01.10.2024

ORDER (MANGESH S. PATIL, J.) :

Heard. Rule. Rule is made returnable forthwith. Learned AGP waive service for both the respondents. At the joint request of the parties, the matter is heard finally at the stage of admission.

2. Resorting to Article 226 of the Constitution of India, the petitioner is questioning legality and sustainability of the order passed by the respondent No.2 – Scrutiny Committee constituted under the Maharashtra Act No.XXIII of 2001 refusing to validate his ‘Mannervarlu’ scheduled tribe certificate.

3. The learned advocate for the petitioner would take us through the impugned order and the papers. He would submit that irrespective of the merits of the matter, since petitioner’s real cousins

Pradip Rameshrao Totawar, Varsha Rameshrao Totawar and Kuldip Rameshrao Totawar have been issued with certificates of validity by the successive committees in the years 2006, 2010 and 2007 respectively, even if the committee intends to undertake a process for recalling their validities on the ground of alleged fraud of concealing contrary record, wherein, the blood relatives were described in the school record as 'Munurwad', 'Munur', 'Munnurwad' and 'Hindu B.C.', till the time those validities are in force and are not recalled and confiscated, the petitioner is entitled to have a certificate of validity. He is ready to have a conditional validity, co-terminus with the validities of the aforementioned validity holders and is ready to face the consequences laid down in **Shweta Balaji Isankar Vs. State of Maharashtra and Ors.; WP No.6320/2017.**

4. The learned advocate Mr. Phatale would further submit that Pradip was the first validity holder. He was issued with a certificate of validity by following due process of law. A vigilance inquiry was conducted, statements were recorded and by passing a reasoned order he was held entitled to have a certificate of validity. There is no dispute about he being related to the petitioner by blood from the paternal side.

5. Learned AGP opposes the request. He submits that the Committee has assigned cogent reasons to demonstrate that Pradip had obtained validity by concealing contrary record. The Committee has inherent powers to undertake the process of recalling the validities on the

ground of fraud, as laid down in the matter of **Raju Ramsingh Vasave Vs. Mahesh Deorao Bhivapurkar**(2008) 9 SCC 54, **Rajeshwar Baburao Bone Vs. The State of Maharashtra and Anr.**; AIR 2015 SC 3024 and **Jyoti Sheshrao Mupde Vs. State of Maharashtra and Ors.**WP No.1954/2009.

6. Learned AGP would further submit that Pradip had obtained validity relying upon the validities of persons who were not related to him by blood from the paternal side and it cannot be said that he was granted validity by following due process of law.

7. We have considered the rival submissions and perused the papers, including the original file of Pradip. Obviously, the committee having formed an opinion about he having practised fraud and has expressed its desire to undertake re-scrutiny, the committee may resort to it and take its inference to the logical end. However, we cannot undertake scrutiny of this inference of the committee as it is likely to cause prejudice to Pradip and could have a bearing on the decision of the Committee.

8. However, till the time the Committee is able to undertake the process for recalling the validity and is successful in substantiating its inference, the petitioner cannot be deprived of the benefit of his validity.

9. Of course the parameters laid down in **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and Ors.**; 2023 SCC Online SC 326, will have to be applied. The parameters are :

(a) There shall not be any dispute about blood relationship between the

claimant and the validity holder ;

- (b) The certificate of validity must have been issued by following due process of law ;
- (c) There is a reasoned order.

10. Pradip was issued certificate of validity by following due process. A vigilance inquiry was conducted and a reasoned order was passed. There cannot be any dispute about he being cousin. The petitioner is entitled to derive the benefit of his validity.

11. In the light of above, the impugned judgment and order refusing to extend benefit of Pradip's validity to the petitioner in spite of being a blood relative from the paternal side is not sustainable more so when he is ready to run the risk of facing the consequences as contemplated in **Shweta Balaji Isankar** (supra).

12. The writ petition is partly allowed. The impugned order is quashed and set aside. The respondent - Committee shall immediately issue certificate of validity to the petitioner as belonging to 'Mannervarlu' scheduled tribe which shall be co-terminus with the validity of his cousin Pradip.

13. The petitioner shall not claim equities.

14. Rule made absolute in the above terms.

[**SHAILESH P. BRAHME**]
JUDGE

[**MANGESH S. PATIL**]
JUDGE