



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10336 OF 2024

Sandip Vijay Batle,
Age - 28 years, Occu – Education,
R/o : Rawala, Tq. Soegaon,
Dist. Ch. Sambhajinagar

.. Petitioner

Versus

1] The State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai – 32.

2] The Scheduled Tribe Certificate Scrutiny
Committee, Ch. Sambhajinagar Region,
Chhatrapati Sambhajinagar,
Through its Deputy Director (R)

.. Respondents

...
Advocate for petitioner : Mr. Pratap V. Jadhavar
AGP for the respondent – State : Mr. R.S. Wani
...

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

DATE : 20 SEPTEMBER 2024

ORDER (MANGESH S. PATIL, J.) :

The petitioner is challenging the order of invalidation passed by the respondent no. 2 - scrutiny committee refusing to validate his 'Naikda' (tribe serial no. 35) scheduled tribe certificate.

2. The learned advocate for the petitioner submits that there was enough evidence before the committee substantiating petitioner's claim but the committee has discarded it on the basis of surmises and

conjectures. Even if the committee had formed some opinion regarding manipulation in respect of some school record, it had not entertained a similar doubt in respect of some other revenue record which was favourable to the petitioner but it was hell-bent to discard the claim. Even if the committee has drawn inference by referring to some contrary record wherein some individuals were described as 'Mathura Vanjari' or 'Mathura Banjara', stating that these entries are of Vimukta Jati - A at serial no. 7, the committee on its own could notice 'Naikda' entries as well, which is a scheduled tribe at serial no. 35 of the constitutional order. The observation of the committee referring to Maharashtra State Gazetteer Buldhana that around 4000 people from Buldhana region belonging to Banjara caste could be noticed which was demonstrative of the fact that even the petitioner's family is from that category, is a far fetched inference and clearly ignores the possible migration even prior to year 1950 of persons who were 'Naikda'.

3. The learned advocate submits that admittedly, petitioner's cousin Anil Chatarsing Batle, Sunil Jagdiya Batle, Kailas Jagdish Batle and Navalsing Chatarsing Batle have been issued with certificates of validity by following due process of law by the then scrutiny committee/s. Even if the committee has now referred to three entries stated to have been manipulated by some of the blood relatives, those are of the year 1964 and 1974 and is now drawing the inference that

those were concealed while obtaining the validities by the earlier validity holders, till the time their validity certificates are not recalled by following due process of law, the petitioner is entitled to derive the benefit. He is 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) and may be issued with certificate of validity.

4. Per contra, the learned AGP would strongly oppose the petition. He would submit that the petitioner has miserably failed to discharge the burden caste on him under section 8 of the Maharashtra Act No. XXIII of 2001. The committee has strong reasons to undertake re-scrutiny of the validities and recall them and has decided to issue notices. Petitioner cannot be allowed to derive the benefit of the fraud perpetrated by his blood relatives and the petition be dismissed.

5. The learned AGP would submit that it is a matter of rampant manipulation of the school record resorted to by the earlier validity holders. On verification of the school record of the Zilla Parishad Marathi Higher Secondary School, Taroda, Taluka – Motala, District – Buldhana, it was found that the caste columns of the register were scored off by blade and were re-written and replaced by word 'Naikda'. The petitioner cannot be allowed to derive the benefit of fraud irrespective of his stand of foregoing his claim if and when the fraud is

proved. The committee has rightly decided to recall the validities by undertaking re-verification of the validity holders and the petition may be dismissed on this ground alone.

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

7. Admittedly, four of the petitioner's blood relatives have been issued with certificates of validity by the respective committees. It is only in respect of three of them, issued by the committee headed by one Mr. V.S. Patil, the stand of the committee that the functioning of the committee was dubious and even the State government had decided to undertake re-scrutiny of the validities issued during its regime, admittedly, the earliest validity of Anil Chatarsing Batle was the decision of a committee which was not headed by Mr. V.S. Patil.

8. We have noticed that Anil Chatarsing Batle was granted validity by following due process of law. A vigilance enquiry was conducted. There was detail report and the committee headed by one Mr. D.D. Mayee had held him entitled to have a certificate of validity by a speaking order on 19-09-2009. Therefore, following the principles laid down in ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others; 2023 SCC Online SC 326***, the petitioner is entitled to derive the benefit of even Anil's validity,

the committee having not disputed the blood relationship between them.

9. We put a specific query to the learned AGP Mr. Patil, as to whether there are any circumstances to demonstrate that 'Naikda' nomenclature is being used even phonetically by a person not belonging to that caste or tribe as it happens and as is the consistent stand of various scrutiny committees in respect of use of surnames 'Thakur', 'Thakar' or 'Koli'. He could not give any instance. According to us, if the caste or tribe is known by a specific nomenclature, as in the present case 'Naikda', the very fact that admittedly, many of the petitioner's ancestors have been using such a surname, in our considered view, would provide a circumstance to substantiate the claim of the person like petitioner, to the 'Naikda' scheduled tribe. We could not notice that the committee has considered this aspect when it has also been assisted by the services of a Research Officer. Once having noticed this, even if 'Naikda' has been used as a surname, that would provide a piece of evidence to substantiate the claim of being 'Naikda' scheduled tribe.

10. It may be that there are several attempts at forgery; but '*falsus in uno falsus in omnibus*', is not a principle recognized in India. A person may over-enthusiastically, in order to substantiate a claim, could obviously resort to some manipulation. If wherever there is a

manipulation those entries can be ignored or discarded, that cannot be taken *ipso facto* as a circumstance to out-rightly discard every other piece of evidence or circumstance. It is in this context, it would be relevant that the petitioner's ancestors and some relatives have been using 'Naikda' as a surname and this circumstance and the documents wherever they are so described over a period of time, would lend support to the petitioner's claim.

11. In the light of above, the petitioner is entitled to have a certificate of validity subject to usual conditions.

12. The writ petition is partly allowed.

13. The impugned judgment and order dated 18-09-2024 passed by respondent no. 2 – Scrutiny Committee is quashed and set aside.

14. Respondent no. 2 – Scrutiny Committee shall immediately issue tribe validity certificate to the petitioner as belonging to 'Naikda' (tribe serial no. 35) scheduled tribe in the prescribed proforma.

15. The validity certificate of the petitioner shall be co-terminus with the validity certificates of the blood relatives of the petitioner who are facing re-verification.

16. The petitioner shall not be entitled to claim equities.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/