



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10335 OF 2024

Sachin Shivsing Dhirbassi

Age : 25 years, Occu – Education,

R/o : Hiwari, Tq. Sonegaon,

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

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

DATE : 20 SEPTEMBER 2024

ORDER (MANGESH S. PATIL, J.) :

Heard.

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

3. Learned advocate for the petitioner submits that petitioner's four third degree cousins had also faced similar invalidation. In the writ petitions, similar orders of the committees were quashed and set aside and this Court held them entitled to have certificates of validity subject to the outcome of the matters of the validity holders which the committee had decided to undertake re-scrutiny of, for the alleged fraud. The petitioner is also ready to run the risk of facing consequences contemplated in ***Shweta Balaji Isankar Vs. State of Maharashtra and others*** (writ petition no. 6320 of 2017), as even in his matter, the committee is now again entertaining a doubt and attributing fraud to the original validity holder - Hirasing Shankar Dhirbassi who was issued with certificate of validity on 05-11-2007.

4. Per contra, 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.

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

6. Obviously, fraud being a serious allegation which has to be proved to the hilt, it can happen only after following due process of law. It would be a long drawn process and the petitioner cannot be made to wait till the committee is able to undertake that process and successfully recalls the certificate of validity. This cannot happen at the cost of petitioner's career.

7. The fact remains that petitioner's four distant cousins have been held entitled to have certificates of validity by various orders of the High Court; i) Bhagyashri D/o Hirasing Dhirbassi and Swapnil S/o Hirasing Dhirbassi in writ petition no. 10515 of 2023 vide order dated 25-08-2023 and ii) Prerna Hirasing Dhirbassi and Gurunanak Dipchand Dhirbassi in writ petition no. 13932 of 2023 vide order dated 28-11-2023.

8. Independently, keeping aside the alleged fraudulent entries in the school register of the Zilla Parishad Marathi Higher Secondary School, Taroda, Taluka – Motala, District – Buldhana, so far as the revenue record is concerned, the committee has entertained a doubt

about genuineness of some of the entries and not all the revenue record. In respect of some of the entries, it has merely been mentioned that the name / surname is shown as 'Naikda'.

9. Precisely, for this reason, 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 VJ-A.

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. For instance, in respect of one Amruta Ravjya who is shown in the genealogy stated by affidavit on oath and was available to the committee showing him as a second degree cousin of petitioner's great grandfather - Shaligram Fattu, the birth and death record, genuineness of which is not doubted by the committee, the record has been discarded on the ground that in the caste column, word 'Naikda' was added subsequently. The photocopy reveals that even if that is considered to be a manipulation, in another column, the individual was expressly described as 'Naikda'. As has been mentioned by the committee itself in respect of revenue record, even the *Pahani Patrak* and Form no. 3 of Chinga Fattu Naikda, who is shown to be real brother of petitioner's great grandfather – Shaligram, word 'Naikda' is appearing against his name. Same is the observation in respect of

Ranbhya Krushna Naikda, stated to be cousin great grandfather and Bhagwan Khushal Naikda, stated to be uncle of Shaligram from the paternal side.

12. In view of such peculiar state-of-affairs, in our considered view, even if the committee is now attributing fraud on the part of the validity holders and seeking to re-open their cases for recalling the validities, the petitioner is entitled to derive the benefits of the validities till the time those are not successfully and finally recalled and cancelled.

13. The writ petition is partly allowed.

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

15. 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.

16. The validity certificate of the petitioner shall be co-terminus with the validity certificates of the blood relatives of the petitioner who are facing reverification.

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

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/