



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

WRIT PETITION NO. 10456 OF 2024

Animesh Baburao Totewad .. Petitioner

Versus

The State of Maharashtra and another .. Respondents

Shri Omgashad B. Boinwad, Advocate for the Petitioner.
Mrs. P. J. Bharad, A.G.P. for the Respondent Nos. 1 and 2.

**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.
DATE : 16 OCTOBER 2024.**

FINAL ORDER :

. Petitioner is challenging the order of invalidation passed by the respondent/Scrutiny Committee refusing to validate his 'Mannervarlu' scheduled tribe certificate.

2. We have heard both the sides.

3. The learned advocate for the petitioner points out that petitioner's father Babu was issued with the certificate of validity by following due process of law. A vigilance enquiry was conducted. He had relied upon validity of one Madhav Pandurang Totewad issued in the year 2005 and that Madhav had also filed affidavit in father's matter, based on which his claim was validated. Even if the Committee is now taking

exception to both the validities for alleged fraud, the petitioner is ready to run the risk of facing consequences in view of law laid down in the matter of **Shweta Balaji Isankar Vs. The State of Maharashtra and others judgment dated 27 July 2018 in W. P. No. 5611 of 2018** and he is ready to have a conditional validity certificate, as the validity of father and that of distant blood relative would hold good, till the time those are not recalled by following due process of law.

4. The learned Assistant Government Pleader opposes the petition. She points out that contrary record of petitioner's father himself of 1980 and 1984, wherein he was described as Munurwad was actively concealed by both the validity holders while obtaining validities and the petitioner cannot be allowed to derive the benefit of fraud practised by his father and distant blood relative.

5. Having considered rival submissions, it is admitted that the petitioner's father Babu and distant blood relative Madhav possess certificates of validity. As can be seen from Madhav's file, he was issued with certificate of validity pursuant to a vigilance enquiry and by a reasoned order. In turn he had filed affidavit in petitioner's father's claim substantiating the genealogy and based on that father of the petitioner was issued with the certificate of validity again by conducting vigilance enquiry. This original file is not available with the learned A. G. P.

6. Since fraud is being attributed to the individuals, who are not before us, we cannot undertake any scrutiny of inference drawn by the Committee to their prejudice. Unless the Committee is entitled to and undertakes the process and is successful in recalling the validities of both the individuals, till then its benefit cannot be refused to the petitioner in the light of law laid down by the Supreme Court in the matter of Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others ; *2023 SCC Online SC 326*. We, therefore, pass following order :

O R D E R

- (i) The writ petition is allowed partly.
- (ii) The impugned judgment and order dated 10.09.2024 passed by the respondent No. 2/Scrutiny Committee is quashed and set aside.
- (iii) The respondent No. 2/Scrutiny Committee shall issue certificate of validity to the petitioner as belonging to 'Mannervarlu' immediately in prescribed proforma.
- (iv) The validity of the petitioner would be co-terminus with the earlier validity holders.
- (v) The petitioner shall not be entitled to claim equities.

[SHAILESH P. BRAHME J.]
bsb/Oct. 24

[MANGESH S. PATIL, J.]