



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

WRIT PETITION NO.10704 OF 2024

Gajanan Vilas Phulbone

... **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
Division, Chhatrapati Sambhajinagar,
through its Deputy Director (R)

... **RESPONDENTS**

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Advocate for petitioner : Mr. P.V. Jadhavar

A.G.P for respondent/State : Mr. S.R. Yadav Lonikar

...

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 waives 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 ‘Koli Mahadev’ scheduled tribe certificate.

3. The learned advocate for the petitioner submits that the petitioner's father Vilas possesses a certificate of validity issued by the Committee by following due process of law. A vigilance inquiry was conducted and by a reasoned order he was held entitled to have a certificate of validity and the petitioner is entitled to derive the benefit of the validity in the light of **Maharashtra Adiwasli Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and Ors.; 2023 SCC Online SC 326.**

4. He would further submit that based on the validity of father Vilas even his sister Manisha was granted certificate of validity, again, by following due process of law and the petitioner cannot be treated differently.

5. Learned advocate submits that even if the reasons assigned by the Committee for taking exception to the validities are accepted, about Vilas and Manisha having practised fraud by concealing contrary record and by resorting to manipulation, till the time the Committee, as proposed by it, takes the matter to the logical end by undertaking re-scrutiny of their validities by extending them opportunity of being heard, which would be a long drawn process, the petitioner cannot be made to wait at the cost of his career. He is ready to face the consequences as laid down in the matter of **Shweta Balaji Isankar Vs. State of Maharashtra and Ors.;WP No.6320/2017** and may be issued with a certificate of validity subject to the final outcome of the matters to be reopened by the

Committee.

6. Learned AGP opposes the petition. He admits that the petitioner's father and sister possess certificates of validity. Even he admits that vigilance inquiry was conducted and by a reasoned order Vilas was held entitled to have a certificate of validity. However, conspicuously, Vilas had concealed contrary record. The committee has assigned sound and cogent reasons to draw an inference about he having practised fraud while obtaining the validity certificate and no exception can be taken to the observation of the Committee and its decision to undertake necessary process for recalling the validity obtained, on the ground of fraud.

7. The learned AGP would further submit that in the petitioner's matter it transpired that there was manipulation in the school record of his grandfather Manik Eknath Phulbone, wherein, entry 'Koli Mahadev' of 23.07.1958 was found to be manipulated. Even the school record of father of 29.05.1977 and that of paternal uncle Dayaram of 28.07.1980, was found to be manipulated. He would, therefore, submit that the petitioner is not entitled to derive the benefit of fraud practised by his father.

8. We have considered the rival submissions and perused the papers, including the original file of petitioner's father Vilas. We have no manner of doubt that he was granted validity by following due process of law. A vigilance inquiry was conducted after he produced the certified

copies of the school register of his father, himself and other blood relatives. Statement of his father was recorded and by a reasoned order he was held entitled to have a certificate of validity.

9. Obviously, the parameters laid down in **Maharashtra Adiwasi Thakur Jamat** (supra) will have to be borne in mind before extending benefit of the father's validity to the petitioner. These 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. All the aforementioned circumstances buttress our conclusion that Vilas was issued certificate of validity by following due process and by a reasoned order and there cannot be any dispute being father and son. The petitioner is entitled to derive the benefit of his validity.

11. It is important to note that **Maharashtra Adiwasi Thakur Jamat** (supra) contemplates passing of a reasoned order. It conspicuously does not lay down, even by implication, that a successor committee could examine sustainability of the order on 'merits' while granting the certificate of validity. We are precisely pointing out this fact for the reason that the learned AGP tried to take exception to Vilas's validity by pointing out that he was given benefit of validity of a maternal side

relative. It is not his argument that the petitioner's father Vilas had posed the validity holder Balaji Dattatray Ayatanbone as related to him by blood from the paternal side, so as to constitute fraud. He had relied upon the validity of Balaji expressly stating that Balaji was his maternal side relative and even the Committee in its order had expressly described Balaji as a maternal side relative of Vilas. We, therefore, discard the submission of the learned AGP demonstrating as to how the order of the committee in the matter of Vilas was not sustainable on merits. *Ex facie*, validity of maternal side relative Balaji was not the only basis on which he was found entitled to have a certificate of validity.

12. So far as the stand of the Committee about Vilas having practised fraud while obtaining certificate of validity, obviously he being not before us no objective scrutiny of such inference of the Committee can be legitimately done in the present matter where he is not a party. It can happen in an appropriate proceeding alone. Making any comment thereon is likely to cause prejudice to him and would have a potential of having a bearing on the Committee's decision in the process to be undertaken for recalling his validity.

13. In the light of above, the impugned order refusing to extend benefit of Vilas's validity to the petitioner in spite of it having been issued by following due process of law would not be sustainable and is liable to be reversed, more so, when as submitted by petitioner's learned advocate he is ready to run the risk of facing consequences as laid down in **Shweta**

Balaji Isankar (supra).

14. The writ petition is partly allowed. The impugned order is quashed and set aside. The Committee shall immediately issue certificate of validity to the petitioner as belonging to 'Koli Mahadev' scheduled tribe which shall be co-terminus with the validity of his father Vilas.

15. The petitioner shall not claim equities.

16. Rule made absolute in the above terms.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

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