



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

65 WRIT PETITION NO. 10779 OF 2024

Sandeep Shankar Mukkerwar
Age : 20 years, Occu. Education,
R/o : Kundalwadi, Tq. Biloli,
Dist. Nanded

... Petitioner

VERSUS

The State of Maharashtra
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai and another

... Respondents

**AND
WRIT PETITION NO. 11103 OF 2024**

Shubham Shankar Mukkerwar,
Age : 24 years, Occu. Education,
R/o : Kundalwadi, Tq. Biloli,
Dist. Nanded

... Petitioners

VERSUS

The State of Maharashtra
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai and another

... Respondents

.....
Advocate for petitioners in both WPs : Mr. Sunil M. Vibhute
AGP for respondents: Mr. S.R. Yadav - Lonikar
.....

**CORAM : MANGESH S. PATIL AND
SHAILESH P. BRAHME, JJ.
DATED : 7 OCTOBER 2024**

ORDER (MANGESH S. PATIL, J.) :-

By way of these separate writ petitions, two real brothers
are putting up challenge to the judgments and orders of respondent

no.2 - scrutiny committee, passed on the same date i.e. 25.09.2024, assigning the same reasons for discarding their Mannervarlu scheduled tribe certificates and directing those to be confiscated and cancelled, instead of validating those in the light of Section 7 of the Maharashtra Act No. XXIII of 2001.

2. At the joint request of the parties, the matters are heard finally at the stage of admission in the light of exigences being pointed out.

3. Learned advocate for the petitioners submits that in fact Sandeep had faced order of invalidation. He had assailed that order in writ petition No.10210 of 2024. By order dated 19.09.2024, the writ petition was allowed partly and the matter was remanded to the scrutiny committee for decision afresh. He would point out that the petitioners have been relying upon the validity of one Sidram Gangaram Mukkerwar, who is first degree cousin of their father Shankar. Since he had not turned up to support the petitioners and they could not file his affidavit, as contemplated under Rule 11 of the Rules of 2003 framed under the Maharashtra Act No. XXIII of 2001, the committee while discarding Sandeep's claim, had refused to extend benefit of Sidram's validity, only on the ground that he had not come forward to substantiate the claim on affidavit.

4. Mr. Vibhute, learned advocate would submit that the matter was remanded with a specific direction to consider if Sidram's validity could be taken aid of by Sandeep, to claim the similar validity, overlooking that he had not come forward to file any affidavit, as is required by Rule 11 of the Rules of 2003. Mr. Vibhute submits that after remand, while deciding the matter again, the committee has now doubted that Sidram is related to the petitioners by blood from the paternal side. Therefore, the petitioners are entitled to have certificates of validity. He would submit that since the committee has now disclosed its intention to undertake re-verification of Sidram's validity, alleging about he having resorted to a fraud while obtaining certificate of validity, till the time the committee is able to do that, the petitioners cannot be made to wait at the cost of their careers, they would be bound by the observations of this court in the matter of ***Shweta Balaji Isankar Vs. State of Maharashtra and others (writ petition no. 6320 of 2017)*** and ready to have conditional validity certificates.

5. Learned A.G.P. would admit the fact that there is no dispute about the validity holder Sidaram being related to the petitioners by blood. However, he would submit, the committee has assigned cogent and plausible reasons for drawing an inference about Sidram having practiced fraud by considering contrary record, while obtaining

certificate of validity and it has inherent powers to undertake re-scrutiny. The petitioners cannot be allowed to derive its benefits.

6. Learned A.G.P. would further point out that the committee has meticulously referred to contrary record wherein the petitioners' blood relatives were described in the school record as 'Shimpi', 'Mannerwar', 'Manerwarlu' and 'Munurwar'. Even the same manipulation could be traced and the committee has appropriately considered the evidence in the proper perspectives while discarding the claim.

7. We have considered the rival submissions and perused the papers including scanned copy of Sidram's file maintained by the committee and made available to us by the learned A.G.P.

8. There is no dispute about the fact that Sidram is a first degree cousin of petitioners' father Shankar and is their blood relative.

9. Sidram's file would reveal that the vigilance enquiry was conducted and school record was verified and by a reasoned order, he was held entitled to have certificate of validity. This would fulfill all the parameters laid down in ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others; 2023 SCC Online SC 326***, for extending its benefits to the petitioners.

10. Whether the evidence before the then committee was enough and whether the then committee had appreciated the material before it in the correct perspectives, are not the parameters laid down in ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others (supra)***. The fact remains that the proper procedure, as is contemplated in Maharashtra Act No. XXIII of 2001 and the rules framed thereunder, was duly followed before holding him to be entitled to have certificate of validity.

11. Even if the committee has now sought to take exception to Sidram's validity and has decided to undertake re-scrutiny for the alleged fraud perpetrated by him, we cannot undertake objective scrutiny of the inference drawn by the committee in this proceeding, for, Sidram is not before us and we do not intend to influence committee's decision in his matter, to be re-opened. Let that happen in an appropriate proceeding. The alleged fraud, in our considered view, is not so glaring, as would be enough to be rightly discarded his validity. There is no material sufficient enough to demonstrate that his validity is a nullity. Therefore, till the time the committee is able to undertake due procedure and is able to recall Sidram's validity, the petitioners are entitled to derive its benefits when they are ready to face the consequences laid down in ***Shweta Balaji Isankar Vs.***

State of Maharashtra and others (supra). They cannot be made to wait at the cost of their careers.

12. In the light of above, the impugned orders refusing issuance of validity certificates to the petitioners as ‘Mannervarlu Scheduled Tribes’ are not sustainable in law.

13. The writ petitions are allowed partly.

14. The impugned orders, in both these petitions, dated 25.09.2024, respectively, are quashed and set aside.

15. The committee shall immediately issue certificates of validity to the petitioners of Mannervarlu Scheduled Tribe.

16. The validity of the petitioners would be co-terminus with that of Sidram Gangaram Mukkerwar.

17. Petitioners shall not be entitled to claim equities.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL , J.)

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