



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 12245 OF 2023

Rupesh Sheshrao Garud
age 33 years, occ. Service
r/o Daithana,
Tq. & Dist. Parbhani

.. Petitioner

versus

1. Scheduled Tribe Certificate
Scrutiny Committee,
Aurangabad, Dist. Aurangabad
through its Member Secretary

2. Maharashtra State Electricity
Distribution Company Ltd.
Through its Executive Engineer
Divisional Office, Solapur
Urja Nagar, Dist. Solapur

.. Respondents

Mr. S. S. Phatale, Advocate for the Petitioner.
Mr. V. M. Kagne, AGP for Respondent No. 1.
Mr. A. R. Salve, Advocate for Respondent No.2.

**CORAM : RAVINDRA V. GHUGE AND
R. M. JOSHI, JJ.**

DATE : 12th MARCH, 2024.

JUDGMENT : (Per Ravindra V.Ghuge, J.)

1. Rule. Rule made returnable forthwith and heard finally
by the consent of the parties.

2. The Petitioner is aggrieved by the invalidation of his claim of belonging to Thakur Scheduled Tribe, by the impugned order of the Committee dated 2nd March, 2023.

3. We have considered the submissions of the learned Advocates for the respective sides and perused the available record. The Committee concedes that the Petitioner is the biological brother of Shyam, who has been granted a conditional validity certificate by this Court vide order dated 16th October, 2023 in Writ Petition No. 5760/2021. The present Petitioner Rupesh and Shyam are the biological children of Sheshrao, who is said to be from the branch flowing from Hemrajbaba s/o Dattabuwa @ Buwasaheb Garud. Piyush s/o Vishnu is from the branch of Namdevbaba, who is the biological brother of Hemrajbaba. Nilesh s/o Narayan is also from the branch of Namdevbaba. Piyush and Nilesh have received validity certificates.

4. The learned Advocate for the Committee has been instructed to state that the relationship between Petitioner Rupesh and Shyam, is undisputed. So also, the relationship of the Petitioner with Piyush and Nilesh, is also undisputed. In these circumstances,

the law laid down by this Court in Apoorva d/o Vinay Nichale vs. Divisional Caste Certificate Scrutiny Committee No.1 and others, 2010 (6) Mh.L.J. 401, would be applicable.

5. The biological brother of present Petitioner, Shyam, has been granted conditional validity by this Court vide order dated 16th October, 2023. This reminds us of the law laid down by this Court in Shweta Balaji Isankar vs. The State of Maharashtra and others, Writ Petition No.5611/2018 decided on 27.07.2018, at the Principal Seat, wherein this Court has concluded in paragraphs 2, 3, 4 and 8 as under :-

“2. On the earlier occasion, we found that though the petitioner produced credible evidence in the form of certificates of validity issued to her real uncle Govind Sambhaji Isankar and which concededly has been issued way back on 5th December 2005 and another certificate of validity dated 5th September 2006 to his cousin uncle Ramdas Sambhaji Insankar, the Committee finds that the certificate of validity issued to the real uncle Govind, is not free from suspicion. It is held by the Committee in the impugned order that a notice to show cause has been issued to said Govind on 14th September 2017, calling upon him to show cause as to why this certificate of validity should not be cancelled as its

issuance is vitiated by fraud or suppression of material facts by the said Govind.

3. On such a finding being rendered by the Committee, we called upon the learned AGP on the earlier two occasions to produce the record. We also indicated to the learned AGP as to how the certificate of validity is denied to the petitioner though she has established her relationship with the said Govind and only on the ground that a show cause notice has been issued, but no proceedings in furtherance thereof came to be initiated till date. The learned AGP sought time to file an affidavit. Now, the Joint Commissioner, Schedule Tribe Scrutiny Committee, Aurangabad has filed an affidavit in reply. That is taken on record. The said affidavit admits that the certificate of validity has been issued to her real uncle and cousin uncle for the petitioner. The affidavit admits that the petitioner relies heavily on these two documents, but clarifies that there is a suppression detected from the original record of the certificate holder and that is how a show cause notice has been issued to Govind. The show cause notice could not be taken to its logical end on account of the huge pendency of cases before the Committee. In all, 7,000 matters were pending on the date when this Joint Commissioner took charge and he has reduced the pendency by 2500 cases being decided. In the

circumstances, he says that appropriate orders and directions be issued by this Court.

4. *We are not impressed by this explanation and the justification not to proceed against a person who has perpetrated a fraud on the public. If it is a serious allegation and which is termed as fraud, then, it should have been taken to its logical end. Mere issuance of a show cause notice in the present case would not suffice for there are two certificates of validity relied upon. The only reason assigned in the impugned order to discard them, cannot be sustained. The justification in the above affidavit is also not enough to straightway discard the certificates of validity issued in the family. It is conceded that other reasons assigned in the impugned order cannot be supported in law.*

8. *This order does not prevent the Committee from proceeding against Govind in accordance with law and needless to further clarify that in the event Govind's claim is invalidated, all the consequences shall be taken by the petitioner as well."*

7. In view of the above, **this Writ Petition is partly allowed.** The impugned order is quashed and set aside. The Committee shall issue a validity certificate to the Petitioner within a period of 30 days, which would be subject to the law laid down in

Shweta Balaji Isankar (supra). For clarity, we record that if Piyush or Nilesh or Sham suffer invalidation after re-opening of their cases, the Petitioner would also suffer the same consequence.

7. Rule is partly made absolute in the above terms. No order as to costs.

(R. M. JOSHI)
JUDGE

(RAVINDRA V. GHUGE)
JUDGE

dyb