



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10955 OF 2024

Sonali D/o Sayalu Totawar,
Age : 17 years, Occupation : Student,
Through her Guardian Father,
Sayalu Bhumanna Totawar,
Age : 49 years, Occu. : Agriculture,
R/o : Kundalwadi, Taluka Biloli,
District : Nanded

.. Petitioner

Versus

1] The State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai – 32

2] The Scheduled Tribe Certificate
Scrutiny Committee, Kinwat Division,
Aurangabad, Through its Member Secretary

.. Respondents

...
Advocate for petitioner : Mr. A.D. Sonkawade h/f. Mr. S.G. Jayewar
Addl. GP for the respondent – State : Mr. P.S. Patil
...

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

DATE : 11 OCTOBER 2024

ORDER (MANGESH S. PATIL, J.) :

In the light of urgency being demonstrated, the matter is being heard finally at the stage of admission with the consent of both the sides.

2. The petitioner is challenging the order of respondent no. 2 - scrutiny committee dated 26-09-2024 refusing to validate her Mannernvarlu scheduled tribe.

3. Learned advocate for the petitioner would advert our attention to the fact that the petitioner's distant paternal uncle Suresh Shivaji Totawar was issued with a certificate of validity by following due process of law and recording a reasoned order on 20-09-2011. Even if the committee has decided to undertake re-scrutiny of the validity on the ground that he had allegedly practised fraud by concealing contrary record of the blood relatives, till the time it is able to do so, the petitioner cannot be made to wait at the cost of her career. She is ready to run the risk of facing consequences as laid down in the matter of ***Shweta Balaji Isankar Vs. State of Maharashtra and others (writ petition no. 6320 of 2017)*** and is ready to have a conditional validity subject to the final outcome of the matter to be re-opened to validity holder - Suresh Shivaji Totawar.

4. Learned AGP would even oppose the request for grant of conditional validity. According to him, cogent reasons have been assigned by the committee to draw inference about validity holder - Suresh Shivaji Totawar having practised fraud in obtaining certificate of validity which could be revealed in the vigilance enquiry in petitioner's matter. Fraud vitiates every solemn act. The petitioner cannot be allowed to derive the benefit of fraud practised by Suresh Shivaji Totawar.

5. Learned AGP would further submit that the order in the matter of Suresh was passed by a committee headed by one Mr. V.S. Patil whose functioning was noted by the State government as dubious and decision has been taken to re-scrutinize all the validities issued during his tenure.

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

7. At the outset, it is necessary to note that the impugned order does not seek to entertain any doubt about blood relationship between the petitioner and validity holder - Suresh Shivaji Totawar. Assuming for the sake of arguments that there are cogent and reasonable grounds for the committee to draw an inference about validity holder - Suresh having practised fraud by concealing contrary record, in obtaining the certificate of validity, fraud being a serious issue, having drastic ramifications, when Suresh is not a party before us, it would be inappropriate and contrary to the principles of natural justice to make comments touching the aspect of alleged fraud in this proceeding. Let that happen in an appropriate proceeding in the light of the decision of the committee to undertake re-scrutiny of his validity.

8. However, when Suresh's validity has been in vogue for more than a decade, when the proposed process for recalling his validity would be a long drawn one, the petitioner cannot be put to prejudice by asking her to wait till that enquiry reaches finality, at the cost of her career.

9. Pertinentnly, the petitioner is ready to have a conditional validity of the consequences, as have been spoken about in the matter of ***Shweta Balaji Isankar Vs. State of Maharashtra and others*** (writ petition no. 6320 of 2017).

10. Apparently, the vigilance enquiry was conducted and for a speaking order, Suresh Shivaji Totawar was held entitled to have a certificate of validity. Similarly, coupled with Suresh's validity, by conducting vigilance enquiry and for a reasoned order, petitioner's cousin Krupa Hanmanlu Totawar was issued with a certificate of validity by a reasoned order.

11. Writ petition is allowed partly.

12. The impugned order is quashed and set aside.

13. The respondent – committee shall immediately issue tribe validity certificate to the petitioner as belonging to 'Mannervarlu'

scheduled tribe. The validity shall be co-terminus with the validities of earlier validity holders.

14. The petitioner shall not claim equities.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/