



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.11286 OF 2024

Komal Balaji Mupade
through the natural guardian i.e. father
Balaji Kishan Mupade ... Petitioner

VERSUS

1. The State of Maharashtra
through its Secretary, Tribal
Development Department,
Mantralaya Mumbai – 32
2. Scheduled Tribe Certificate
Verification Committee, Kinwat
HQ: Chhatrapati Sambhajnagar
through its Deputy Director (R)
and Member Secretary near CIDCO
Bus Stand Chhatrapati Sambhajnagar
Dist. Chhatrapati Sambhajnagar ... Respondents

...
Advocate for Petitioner : Mr. Thorat Chandrakant R.
Addl.G.P. for Respondents: Ms. V.N. Patil - Jadhav

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

DATE : **21.10.2024**

PER COURT :

Heard both the sides finally at the stage of admission in the
light of exigency, inasmuch as, the petitioner has now been allotted a
college for the BDS course.

2. The petitioner is challenging the order of the respondent
No.2 - Scrutiny Committee refusing to validate his 'Mannervarlu'
scheduled tribe certificate.

3. Learned advocate for the petitioner submits that though the petitioner had not submitted any affidavit of his cousin uncle Ramesh Maruti Mupade who was issued with a certificate of validity, as is required by Rule 11 of the Rules of 2013 framed under the Maharashtra Act No.XXIII of 2001, the circumstances are abundant to demonstrate that in the process the Committee has considered the validity of Ramesh as well and has not been disputing petitioner being related to him by blood, rather the Committee has even sought to refer to contrary record of Ramesh's father to decline the petitioner's claim. He would submit that when Ramesh was issued with a certificate of validity for a reasoned order, the petitioner is entitled to derive the benefit of that validity.

4. He would point out that the vigilance inquiry conducted in the matter of one Prakash was adopted by the then Committee and based on validity of Prakash, Ramesh was granted a certificate of validity by following due process of law. Even if the Committee has now taken exception to the validity of Ramesh on the ground of he having practised fraud, till the time it does not succeed in recalling the validity, the petitioner is entitled to derive its benefit. She is ready to suffer the consequences as laid down in **Shweta Balaji Isankar Vs. State of Maharashtra and Ors.;WP No.6320/2017.**

5. Learned AGP would submit that it is a matter of clear fraud perpetrated by Ramesh Maruti Mupade. Without he being related to Prakash benefit of latter's validity was obtained. There are enormous

contrary entries in the school record of petitioner's ancestors as mentioned in the impugned judgment and order none of which were revealed to the then Committee and were rather concealed by Ramesh while obtaining the certificate of validity. The Committee has decided to undertake rescrutiny of his certificate of validity and the petitioner cannot be allowed to derive the benefit of fraud practised by him.

6. Having considered the rival submissions and having perused the record it is quite evident that though the Committee and even the learned AGP are now seeking to take exception to Ramesh's validity on the premise of he having resorted to active concealment of the contrary record, the Committee will have to undertake due process of law for recalling his validity. There is apparently nothing to demonstrate that the circumstances petted against Ramesh are so clear as would go to the root of the validity certificate possessed by him. So long as the Committee does not undertake the exercise and succeeds in recalling his validity, the petitioner, admittedly, being related to Ramesh by blood, cannot be denied the certificate of validity based on his validity alone.

7. As can be seen, for the reasons best known to the then Committee, vigilance inquiry conducted in the matter of Prakash Maruti Mupade was considered by it while validating Ramesh's claim, by a speaking and a reasoned order. Those being the parameters laid down in **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and Ors.; 2023 SCC Online SC 326**, the petitioner is entitled

to derive benefit of the validity possessed by Ramesh, more so when she is ready to run the risk as is submitted by her learned advocate of facing the consequences contemplated in **Shweta Balaji Isankar Vs. State of Maharashtra and Ors.**;WP No.6320/2017.

8. Obviously, this being a parallel proceeding, no independent inquiry and scrutiny can be undertaken to ascertain and scrutinize inference drawn by the Committee objectively as regard the alleged fraud since validity holder Ramesh is not before us.

9. So far as the Committee's observation regarding composition of the Committee which issued certificate of validity to Ramesh is concerned, the stand of the Committee that a Law Officer acted as a member who could not have been Member of the Committee, by name Mr. B.B. Shirurkar, cannot be countenanced in the light of Rule 9 of the Rules of 2003 which merely lays down that the decision of the Committee should be by majority. Since Mr. Shirurkar was only one of the three members of the Committee and there being unanimity amongst all, his participation as a member of the Committee would not go to the root of the validity possessed by the Ramesh.

10. The writ petition is partly allowed.

11. The impugned judgment and order dated 07.10.2024 passed by the respondent No.2 – Scrutiny Committee is quashed and set aside.

12. The respondent No.2 – Scrutiny Committee shall immediately issue tribe validity certificate to the petitioner as belonging

to 'Mannervarlu' scheduled tribe in the prescribed proforma.

13. The validity certificate of the petitioner shall be co-terminus with the validity certificates of the blood relatives of the petitioner who are facing reverification. The order having dictated in presence of the learned AGP and the Law Officer of the Committee, they shall immediately communicate this order to the Committee.

14. The petitioner shall not be entitled to claim equities.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

habeeb