



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11882 OF 2024

1) Gagankumar s/o Sayanna Mokmod,
Age 26 years, Occ. Student,
R/o. At post Yetala, Tq. Dharmabad,
Dist. Nanded.

2) Jagankumar s/o Sayanna Mokmod,
Age 24 years, Occ. Student,
R/o. At post Yetala, Tq. Dharmabad,
Dist. Nanded.

... Petitioners

VERSUS

1) The State of Maharashtra
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai-32.

2) Scheduled Tribe Certificate Verification
Committee, Kinwat, Headquarter
Chhatrapati Sambhajanagar,
Through its Deputy Director (Research)
and Member Secretary.

... Respondents.

...

Advocate for Petitioners : Mr C.R. Thorat
A.G.P. for Respondents/State : Mr. S.R. Yadav-Lonikar

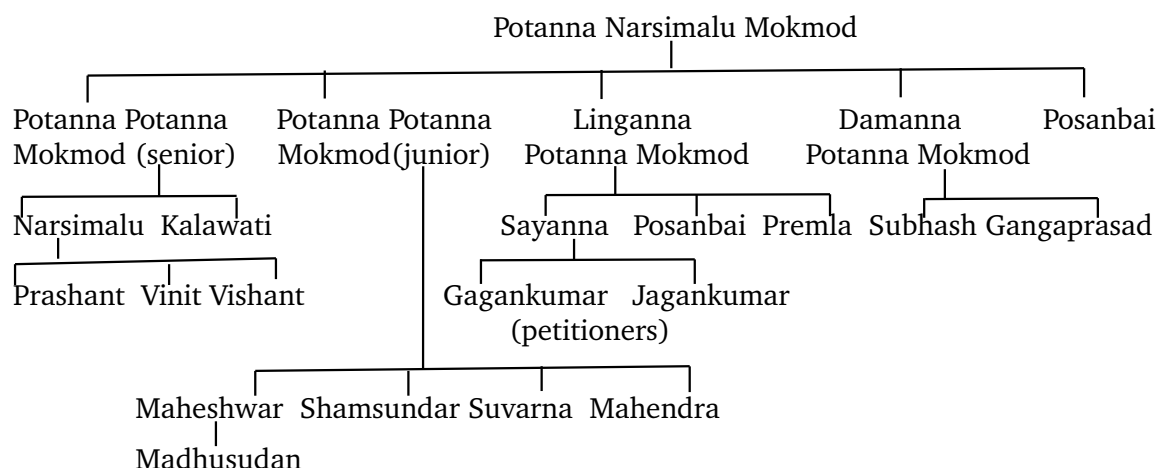
CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.

DATE : 25.10.2024

ORDER : (PER : MANGESH S. PATIL J.)

Under article 226 of the Constitution of India, the petitioners are challenging the order of respondent no. 2-scrutiny committee, refusing to validate their 'Mannervarlu' scheduled tribe certificates.

2. We have heard both the sides finally at the stage of admission.
3. The common claims of four individuals including the petitioners herein and one Prashant Narsimalu Mokmod and Vinit Narsimalu Mokmod, were earlier discarded by the committee. All the four had challenged that decision in Writ Petition 9662/2023. By order dated 08.08.2023, the petition to the extent of Prashant and Vinit was allowed and they were held entitled to have certificates of validity subject to the condition that their validities would be depending on the decision to be taken by the committee in respect of the matters of the validity holders they were relying upon, which it had decided to reopen on the ground of fraud.
4. In the same order, since we had demonstrated that there was no clear and convincing record/evidence regarding the present petitioners, Gagankumar and Jagankumar, being related to the validity holders by blood, to their extent we had remanded the matter to enable them to establish their relationship.
5. Accordingly, the committee has undertaken a fresh vigilance enquiry and by the impugned order has discarded the petitioners claim, however, conspicuously, without entertaining any doubt about the petitioners being related to the validity holders by blood. A revenue record collected during vigilance was also placed by the Vigilance Officer before the committee.
6. The petitioners have been claiming that the genealogy of the family is as under:



Apparently, the petitioners are shown to be grandsons of Linganna Potanna, who is shown to be having three brothers namely Potanna Potanna Mokmod (senior), Potanna Potanna Mokmod (junior), Damanna Potanna Mokmod and sister Posanbai. The validity holders Prashant, Vinit, Vishant, are the grand children of Potanna Potanna Mokmod (senior), validity holders Shamsundar and Madhusudan Maheshwar are the son and grand son of Potanna Potanna (junior), and validity holder Subhash and Gangaprasad are sons of Damanna Potanna.

7. The revenue record, particularly the 7x12 extract of land Survey No. 13 for the years 1960-61 to 1969-70, *prima facie* demonstrates that all these four brothers Potanna Potanna (senior), Potanna Potanna (junior), Linganna Potanna and Damanna Potanna have inherited this land simultaneously and their names were mutated by mutation entry No. 706. This is possible only if all the four are real brothers. Same is the case with land Survey No. 44. Since these documents have been collected by the vigilance officer as certified copies from the concerned Tahsil office, it is abundantly clear that the committee has rightly accepted the blood relationship between these petitioners and the aforementioned validity holders. Consequently, the petitioners cannot be treated differently and would be entitled to have certificates of validity.

8. True it is that the committee has reopened the matters of validity holders Vishant Narsimalu, Subhash Damanna Mokmod and Gangaprasad

Damanna Mokmod, and has revoked their validities. However, they have challenged that decision by preferring separate writ petitions and by the order dated 23.10.2024, in Writ Petition No. 11881/2024 and connected matters, operation of the order of the committee recalling the validities has been stayed.

9. Incidentally, apart from these validity holders, as has been observed above, Prashant Narsimalu and Vinit Narsimalu have been held entitled to have certificates of validity by the order of this Court. Besides, validities of Shamsundar Potanna Mokmod and Subhash Damanna Mokmod are still intact and have not been recalled by the committee by adopting similar course. Therefore, the petitioners are even entitled to rely upon these validities which are still intact.

10. It is in light of such peculiar state of affairs, even the petitioners are entitled to have certificates of validity subject to the condition that those would be co-terminus with all the validities in the family.

11. The writ petition is partly allowed.

12. The impugned order is quashed and set aside. The respondent No. 2-committee shall immediately issue tribe validity certificates to the petitioners as belonging to 'Mannervarlu' scheduled tribe in the prescribed format without adding anything. The validities shall be subject to the final outcome of the matters which the committee has decided to reopen.

13. The petitioners shall not be entitled to claim equities.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

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