

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4135 OF 2024

Vimal Anandrao Mali Surewad

VERSUS

The State Of Maharashtra Through
Its Principal Secretary And Others

AND

WRIT PETITION NO. 4144 OF 2024

Govind Ananda Suryawad Surewad

VERSUS

The State Of Maharashtra Through Its Principal
Secretary And Others

AND

WRIT PETITION NO. 4185 OF 2024

Madhav Ganpati Surewad

VERSUS

The State Of Maharashtra Through Its Principal
Secretary And Others

AND

WRIT PETITION NO. 4186 OF 2024

Varsha Prabhatrao Surewad

VERSUS

The State Of Maharashtra Through Its Principal
Secretary And Others

AND

WRIT PETITION NO. 4256 OF 2024

Prabhata Ganpati Surewad

VERSUS

The State Of Maharashtra Through Its Principal
Secretary And Others

AND

WRIT PETITION NO. 4257 OF 2024

Govind Sambhaji Surewad
VERSUS
The State Of Maharashtra Through Its Principal
Secretary And Others

AND
WRIT PETITION NO. 4258 OF 2024

Suryakant Amruta Surewad
VERSUS
The State Of Maharashtra Through Its Principal
Secretary And Others

AND
WRIT PETITION NO. 4259 OF 2024

Laxmi Kisan Suryawad
VERSUS
The State Of Maharashtra Through Its Principal
Secretary And Others

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Mr. C. R. Thorat, Advocate for the Petitioners
Mr. A. B. Girase, GP and Mr. V. S. Badakh, Mr. V. M.
Kagne, Mr. R. K. Ingole, Mr. A.A.A. Khan & Ms. Neha B.
Kamble, AGPs for Respondent Nos. 1 & 3/State
Mr. S. B. Pulkundwar, Advocate for Respondent No. 2

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CORAM : RAVINDRA V. GHUGE &
R. M. JOSHI, JJ
DATE : APRIL 23, 2024

PER COURT :

1. The Writ Petition Nos. 4256/2024, 4257/2024, 4258/2024 & 4259/2024, are not on board. Taken on board, by the consent of the parties.

2. **Issue notice** to the Respondents, returnable on 24th June, 2024. The learned GP/AGPs waives service of

notice on behalf of Respondent Nos. 1 and 3. Shri. Pulkundwar, learned Advocate, waives service of notice on behalf of Respondent No. 2.

3. We have perused the judgment recently delivered by this Court at the Principal Seat in Writ Petition No. 8822 of 2022 with other connected Petitions (*Bharat Nagu Garud Vs. The State of Maharashtra and Others*), in which, a view has been expressed that this Court alone can arrive at a conclusion on a fraud played by a litigant while deriving a validity certificate.

4. After we briefly heard the learned Advocates for the respective sides, at first blush, we were impressed by the fact that these Petitioners are supported by 23 validity holders. However, the following factors, as have been pointed out by the learned GP/AGP, are eye openers:

A) Govind was the first Applicant from amongst the clan to make an application for seeking a validity certificate of 'Mannervarlu' Scheduled Tribe.

B) Govind is the son of Sambhaji, grandson of Manika

and great grandson of Jalba. This is the branch of Jalba. Govind's claim was invalidated on 27.09.1996.

C) Pradnya, daughter of Baliram, granddaughter of Ganpati, who is son of Manika (Ganpati is the biological brother of Sambhaji), suppressed the invalidation of Govind s/o Sambhaji and acquired a validity certificate in 2002, on the basis of maternal relatives (not paternal relatives).

D) Kiran, son of Dhondiba, is the sibling of Sharda and Pankaj. Kiran's claim is also invalidated on 06.06.2002. Sharda and Pankaj suppressed the very existence of Kiran and obtained validity certificates, by indicating that they were the only 2 siblings.

E) Several of the cousins of these Petitioners from the branch of Jayram, who is the biological brother of Jalba (whose father is Shivram Jalba Surewad) namely, Kusum son of Jayram, Raosaheb son of Jayram, Vyankat son of Jayram, Shivaji son of Jayram, Sanjay son of Jayram, Ramdas son of Tukaram, Balaji Gopal son of Anand and Rutuja and Ramrao, siblings, have acquired validity certificates. These are from the branch of

Jayram son of Jalba.

F) From the branch of Jalba son of Shivram, Shantabai daughter of Amruta, Jalba son of Kishan, Sharda and Pankaj, son/daughter of Dhondiba, Vijay and Pankaj sons of Suryakant, Prashant and Prachi son/daughter of Baliram (Pradnya is their sibling), Vinayak son of Dattaram, Ankush son of Parshuram, Pratibha daughter of Parbata, Sunil/Anil/Kishor sons of Jalba, grandsons of Kishan, have all acquired the validity certificates.

G) The twist in these matters is that, Pradnya suppressed the rejection of the claims of Govind and Kiran and obtained validity certificates on the basis of the maternal relatives. This aspect has now been exposed.

H) All those who received validity certificates have suppressed the invalidity of Govind and Kiran and relied on Pradnya. In fact, the siblings of Kiran, namely, Sharada and Pankaj, have not mentioned their biological brother Kiran in their family tree, only because Kiran's claim was invalidated.

I) All the validity holders placed reliance on Pradnya. As such, the case of Pradnya has become the foundation for all others to establish their claims for validity. If the case of Pradnya is exposed in the backdrop of the rejection of Govind and Kiran, all these validity holders are likely to lose their validity certificates.

5. Besides these aspects, the learned GP has drawn our attention to the very first entry of 1928 and the entries of 1942. The entry of 1928 (1338 Fasli) indicates the social status as Manurwar, which is not in the ST category. The 1942 entry (1353 Fasli) is Manurwar with "LU" having been added subsequently. These records were considered, according to the learned GP when the claims of Govind and Kiran were considered. Pradnya received the validity certificate which a cyclostyled order with '*fill in the blanks*' in ink. In these peculiar facts and circumstances, we are of the opinion that the view expressed by this Court in ***Bharat Nagu Garud (supra)***, would be squarely applicable, since *prima facie*, we find that there are several factors pointing towards a serious fraud which is the basis of

the validity certificates of all the validity holders.

6. The learned GP/AGPs have vehemently opposed grant of interim relief. According to them, such litigants hoodwink the Court and snatch orders. A message needs to go out loud and clear that such attempts do not succeed in the Court of law.

7. Principally, we have no reason to doubt the contentions of these law officers. The only issue that weighs on our mind is that the Petitioners before us are in government employment. No doubt, all are now under a cloud in so far as their validity certificates are concerned. Until we decide these Petitions finally, refusal of interim relief would lead to their termination from service and eventually, if the Court holds in their favour, they would have suffered loss of employment/loss of earning as well as their families would suffer. Being a Court of equity, we will have to balance the equities.

8. The learned Advocate for the Petitioners fairly submits on instructions that this Court may protect the employment of these Petitioners and they

are willing to tender affidavits/undertakings in this Court, as well as before their individual employers that, they would not claim any increments/further pay fixation/ promotions / service benefits etc., until their claims are validated by this Court.

9. On the condition of such affidavits /undertaking being filed in this Court and copies being tendered to the respective employers, on or before 04.05.2024, we direct the employers of these Petitioners not to terminate their services only for the reason that their claims have been invalidated and their Petitions are pending before us. If any of them does not enter an affidavit by 04.05.2024, this interim relief would stand automatically vacated without reference to the Court on 06.05.2024.

10. The parties shall note that if Pradnya or any other validity holder from the said clan suffers invalidity after reopening of a case, the learned GP/AGPs would be at liberty to place the said order before this Court for reference.

(R. M. JOSHI, J)
Malani

(RAVINDRA V. GHUGE, J)