



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 3963 OF 2002

Suresh Marotrao Dulewad

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Shri A. S. Golegaonkar, Advocate for the Petitioner.

Shri P. S. Patil, Addl.G.P. for the Respondent Nos. 1 to 5.

CORAM : S. G. MEHARE AND

SHAILESH P. BRAHME, JJ.

DATE : 03RD MARCH, 2025.

ORDER :

. Heard both sides finally at the admission stage. The petitioner is challenging the judgment and order dated 17th May, 2002 passed by the respondent No. 2/Scrutiny Committee invalidating his tribe certificate of 'Mannervarlu'.

2. Mr. A. S. Golegaonkar, learned counsel for the petitioner tenders on record the compilation comprising of list of the validity holders and various orders passed by the High Court. It is submitted that in all there are nineteen validity holders in the family as well as old document of mortgage deed of 1345 Fasli (1935 A.D.). He would submit that on the basis of parity, the petitioner would be entitled for the validity certificate. Amongst the validity holders, the petitioner's real sister and cousins are

also there. Unless earlier validities are revoked, no different view can be taken. It is further informed that Savita Shivling Dulewad, cousin of the petitioner is first in time validity holder issued on 19.04.2003.

3. Learned Additional Government Pleader Mr. P. S. Patil vehemently opposes the submissions of the petitioner. He has placed on record original papers of Savita. He would submit that the order of invalidation of Kailash Gurunath Dulewad passed by the Scrutiny Committee and confirmed by the High Court in Writ Petition No. 5801 of 1999 have been suppressed, not only by the petitioner, but also by other validity holders. He has placed on record judgment and order passed by the Coordinate Bench on 05.10.2002 in Writ Petition No. 5801 of 1999 in the matter of Kailash Gurunath Dulewad. It is submitted that it is brazen fraud on the face of the record in suppressing the invalidation of a close paternal side blood relatives

4. He would submit that material pressed into service by Kailash by way of affidavits, incompatible school record of his father of 1956 and cousin of 1960 was also suppressed by the petitioner. It is submitted that if the claim of the petitioner is allowed, it would amount to perpetuation of fraud. Learned Addl. G. P. has shown the papers of first validity holder Savita Dulewad to make out a case that there is suppression of clinching record. It is further contended that, so far as mortgage deed of Fasli 1345 is concerned, it was not relied upon by the

petitioner. No vigilance was conducted in that regard. Therefore, that cannot be considered for the first time in the High Court. He would submit that Committee has rightly rejected the claim of the petitioner and no interference is warranted in the impugned judgment and order.

5. We have considered rival submissions of the parties. There is no dispute on relationship of petitioner with earlier validity holders. Pertinently, there is also no dispute about relationship of the petitioner with Kailash Gurunath Dulewad, whose tribe claim was invalidated by the Committee and confirmed by the High Court. The genealogy, which is placed on record clearly indicates that Kailash Gurunath Dulewad is first degree cousin of the petitioner. There is no dispute with order of invalidation of Kailash passed by the Committee and it is confirmed by the High Court in Writ Petition No. 5801 of 1999 on 05.10.2002. These orders were not disclosed not only in case of the petitioner, but also while granting validities to other blood relatives whose validities are not pressed into service.

6. While invalidating claim of Kailash, affidavit of three persons were discarded by the Committee namely Savita Ramdas Godgodwar, Pramod Ramdasrao Godgodwar and Madhav Balaji Nilewad. Incompatible school record of Kailash's father of 07.08.1956 indicating caste as Manur and record of his uncle Pandit Dattatraya Dulewad of 27.07.1960 indicating caste as Munurwar was considered by the Committee and the High Court

for rejecting his tribe claim. He was relying on validities issued to the maternal side relatives. It is noticed that the incompatible school record which was considered in the case of Kailash was not disclosed by the petitioner as well as the validity holders. Kailash being close relative, it was the duty of the petitioner to come with clean hands and disclose the orders of invalidation.

7. Learned counsel for the petitioner has adverted our attention to the vigilance report conducted in the matter of Ramesh Marotirao Dulewad, who is real brother of the petitioner. In his case the old record of mortgage deed of 1345 Fasli was considered by the vigilance cell. He was also issued with the validity certificate by the Committee on 22.08.2008. However, the said mortgage deed has not been pressed into service by the petitioner. It is pre-constitutional record having greater probative value. This piece of evidence cannot be brushed aside by the Committee or by this Court.

8. We are of the considered view that this incompatible school record which was considered in the case of Kailash was not pointed out before the Committee either by the party or it could not be traced through vigilance. Now we are faced with the situation that there is incompatible school record of the close relative in the family, which has not been verified by the Committee or by earlier coordinate benches.

9. This is not an adversarial litigation. There is incompatible

school record, which was not scrutinized by the Committee. Similarly, there is pre-constitutional document of mortgage deed, which is also not verified in the present matter. The record which was before the Committee and the High Court in the matter of Kailash has come before this Court for the first time as it needs to be scrutinized.

10. Learned counsel for the petitioner has pressed into service, near about nineteen validities. We have noticed that there was suppression of clinching evidence as well as non consideration of *prima facie* incompatible record. Under these circumstances, we find it fit to relegate the parties before the Scrutiny Committee. We, therefore, pass following order.

O R D E R

- (i) The writ petition is partly allowed.
- (ii) The impugned judgment and order dated 17.05.2002 passed by the respondent No. 2/Scrutiny Committee is quashed and set aside.
- (iii) The tribe claim of the petitioner is relegated to the respondent No. 2/Scrutiny Committee for conducting inquiry afresh after following due procedure of law and after extending opportunity of hearing to the parties.

(iv) The petitioner shall appear before the Committee on 24.03.2025.

(v) Original files produced by the learned Addl. G. P. be returned to the learned Addl. G. P.

[SHAILESH P. BRAHME J.]

[S. G. MEHARE, J.]

bsb/March 25