



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

WRIT PETITION NO.12791 OF 2024

Sai s/o. Vinod Kasewad

..Petitioner

Vs.

1. The State of Maharashtra,
2. The Scheduled Tribe Certificate
Scrutiny Committee,
3. Sub-Divisional Officer, Degloor

..Respondent

AND

WRIT PETITION NO.12793 OF 2024

Gaurav s/o. Vinod Kasewad

..Petitioner

Vs.

1. The State of Maharashtra,
2. The Scheduled Tribe Certificate
Scrutiny Committee,
3. Sub-Divisional Officer, Degloor

..Respondent

Mr.Anil S. Golegaonkar along with Mr.Manish L. Paithane and Mr.Sagar D. Madake h/f. Mr.Madhur A. Golegaonkar, Advocates for the petitioners

Mr.P.K.Lakhotiya, AGP for respondents

**CORAM : R.G.AVACHAT AND
NEERAJ P. DHOTE, JJ.
DATE : AUGUST 01, 2025**

PER COURT :-

Heard learned counsel for the parties.

2. Since common questions of facts and law arise in both these petitions, the petitions are taken up together for hearing. Moreover, the petitioners are siblings. They claim to have belonged to "*Mannervarlu*", Scheduled Tribe. Both of them are taking education. Their tribe certificates were subjected to scrutiny for grant of validity thereto. Respondent no.2 - Scrutiny Committee, after hearing the petitioners, turned down their claim. The petitioners are, therefore, before us.

3. We do not propose to advert to the submissions made by learned counsel for the petitioners, since the same may form part of our reasons.

4. Learned AGP, on the other hand, supports the impugned orders. According to him, the validity certificates relied on by the petitioners in the proceedings before the respondent - Scrutiny Committee, have now been reopened. It is only on the strength of the certificate granted to Sunil, the validity certificates have been granted. He would submit that the father of the petitioners had obtained the tribe certificate fraudulently. On the strength of the same, he had joined service. His employer had submitted the tribe certificate to the Scrutiny Committee. The Scrutiny Committee

invalidated and forfeited it vide order dated 14.03.2002. The father of the petitioners suppressed this fact in the proceedings before the Scrutiny Committee. In support of his contentions, learned AGP relied on the judgments of the Division Bench of this Court in the cases of (i) **Chaitanya d/o. Sanjay Palekar Vs. State of Maharashtra and others (Writ Petition No.8531 of 2022, decided on 24.07.2023)**; and (ii) **Shreya Linganna Umriwad Vs. State of Maharashtra and anr., (Writ Petition No.8894 of 2024, decided on 22.08.2024)** and particularly, paragraphs 5 and 10 thereof.

5. Learned AGP would further submit that even the Scrutiny Committee need not advert to the relationships of the petitioners and the others validity holders. He is justified in pointing out the same to this Court since the case of misrepresentation and fraud could be raised at any point of time in any kind of proceedings. According to him, he was, therefore, justified even making submissions beyond the factual matrix that was admitted by the Scrutiny Committee while dealing with the claims of the petitioners. He would further submit that the father of Sunil namely, Govind Kasewad, filed affidavit before the Scrutiny Committee, stating therein that his father (Govind) has only one sister namely, Laxmibai.

Learned AGP pointed the genealogy relied on by the petitioners and other validity holders to contend that Govind did have two real sisters, besides sister - Laxmibai. Learned AGP meant to say that these may be two different families. When Sunil categorically claimed to have no uncle the genealogy relied on by the petitioners would be of no avail. He would further submit that there were number of contra entries in the past record, which indicates that petitioners' forefathers belonged to "Munur" tribe, which falls in Special Backward Category. He would further submit that initially, the claims of Vinod (father of petitioners) and his brother Sanjay were turned down by the Scrutiny Committee. Thereafter, Sanjay obtained validity certificate in 2010 suppressing the earlier invalidation. He meant to say that the certificates of the validity holders, which were relied on by the petitioners, have been obtained by practicing fraud and since their cases have now been reopened, the petitioners will have to establish their claim independent of the validity certificates of those so called relations. On all these grounds, learned AGP urged for dismissal of the petitions.

6. We have considered the submissions advanced. Perused the orders impugned herein.

7. Admittedly, the father of the petitioners, their real uncle, cousin uncles and one paternal aunt have been granted validity certificates. Three of those certificates have been granted after this court remanded the matters back to the Scrutiny Committee. Close reading of the orders granting those three validity certificates, indicate that the Scrutiny Committee had scrutinised the material relied on by the applicants therein. Furthermore, the father of the petitioners holds validity. It is true that their claims have now been reopened. It would not be in the fitness of things for us to observe anything, as to whether the validity holders have practiced fraud in obtaining the certificates, since they are not before us to defend themselves. Moreover, their claims are pending before the Scrutiny Committee. Furthermore, it is not such an obvious case to make out a case of fraud. Needless to mention, the Scrutiny Committee would decide the matters which have been reopened, on their own merits and uninfluenced by the observations made herein.

8. It is true that the father of the petitioners had, earlier, obtained tribe certificate from the Tahsildar, Mukhed, Dist. Nanded. On the strength of the same, he had secured a job with the Government Medical College and Hospital. The father is also not before us to meet whatever allegations have been levelled against him by learned AGP. The fact, however, remains that the father's

first tribe certificate was referred to the Scrutiny Committee. It was submitted by learned counsel for the petitioners that the father left the job within five months of his joining service. Thereafter, he got another job in the office of Sub-Registrar. It is not in dispute that the father's tribe certificate was submitted to the Scrutiny Committee by his previous employer – Health Department. The proceedings before the Scrutiny Committee, admittedly, were heard *ex-parte*. There is nothing tangible to indicate that the father of the petitioner was served with the notice of the said proceedings and he consciously, remained absent. The decision given by the Scrutiny Committee without hearing the father of the petitioners, is not *prima facie* taken to be binding on him, although he has not challenged the same before any other forum. It is not the case of the respondents that the father of the petitioners obtained two certificates for two different tribes. With the passage of time, the authority to grant the caste/tribe certificate was bestowed with the Sub-Divisional Officer. The father of the petitioners had, therefore, to approach the S.D.O., Degloor, who, in turn, granted him the tribe certificate of 'Mannervarlu', Scheduled Tribe. Admittedly, Taluka Mukhed comes within the Sub-Division, Degloor. Thereafter, the said certificate was subjected to scrutiny and the Scrutiny Committee granted the father the validity.

9. We have carefully perused the authorities relied on. The concerned had appeared before the Scrutiny Committee and put forth their claims. In the case of **Chaitanya** (supra), the father of the petitioner had faced invalidation, still he obtained another tribe certificate and obtained validity thereto. The facts of the said case indicate that the father of Chaitanya had appeared in the proceedings, wherein his claim was invalidated. He intentionally suppressed the fact of invalidation, while obtaining fresh certificate. So is not the case herein, since there is *prima facie* nothing to indicate that the father was well aware of the proceedings before the Scrutiny Committee in respect of the first tribe certificate.

10. In the case of **Shreya** (supra) in paragraph 10, it has been observed thus:-

10. We have considered rival submissions and perused the papers. This is yet another instance akin to what we had occasion to consider in the matter of Chaitanya Sanjay Palekar (supra), with the only difference that in the matter of Chaitanya his father himself had faced invalidation but could manage to obtain another tribe certificate and got it validated. We had expressly refused to extend the benefit of such dubious validity certificate of the father. As can be seen, in the present matter, the only difference is that instead of father, it is the uncle and the aunt who had ex facie resorted to fraud and forgery in obtaining certificates of validity. Even if, the learned Advocate for the petitioner is taking a specious stand of lack of knowledge of the invalidities faced by uncle

Sainath and aunt Sunita, we are not ready to accept it. It is a feigned ignorance. It is highly improbable and, therefore, unbelievable that though the petitioner's father and uncle Balaji could rely upon validity of Sainath who is their real brother but they have been oblivious of the fraud practised by him. We cannot allow such fraud to be further taken benefit of by conceding the request of the petitioner to have a conditional validity making it co-terminus with the matter to be reopened by the Committee.

11. It is informed and even not in dispute that the files of the others who hold validity were very much before the Scrutiny Committee. The Scrutiny Committee went through the said files. It is true that in some of the cases, it noticed contra entries, as has been observed herein above. The record further indicates that three old documents were very much there in those files. It is not known, as to why the Scrutiny Committee turned blind eye thereto. Those documents are in the nature of the school admission register record and 'क' पत्रक. The entry in the 'क' पत्रक dates back to year - *Fasli* 1352 [1947], wherein, tribe of grandfather of the petitioners has been record as 'Mannervarlu'. A glance of the said document does not lead us to infer the entry to have been interpolated. The same is the case as regards the entry in the school admission register of the admission of the cousin grandfather of the petitioners. The entries date back to 1953 and 1960, wherein, the tribe is shown as 'Mannervarlu'. There is specific endorsement below these

documents, collected by the vigilance cell, that no interpolation was noticed. Admittedly, the report submitted by the vigilance committee favours the petitioners herein.

12. It is true that Govind, father of Sunil, made a statement, wherein he claimed that he had only one sister by name Laxmibai; whereas, the genealogy given by the other validity holders indicate him to have two more brothers. This factual matrix need to be gone into by the Scrutiny Committee. The very committee has already granted validity certificate in favour of six other persons, who are said to be closely related to the petitioners. Admittedly, one of them is the father of the petitioners. The Scrutiny Committee, in the proceedings taken up pursuant to reopening of the cases, would necessarily go into the factual matrix. Suffice it to say that since the father of the petitioners, cousin uncles, cousin cousins hold validity certificates and in the proceedings of these petitioners, such relationship was not found to have been in dispute by the Scrutiny Committee, it would be in the fitness of things to grant the petitioners conditional validity.

13. For all the aforesaid reasons, we find that the petitions need to be allowed. Hence, the following order:-

- (i) The Writ Petitions are partly allowed.
- (ii) The orders impugned herein are set aside. The respondent - Scrutiny Committee shall issue the petitioners conditional validity certificates.
- (iii) The validity certificates to be issued to the petitioners would remain valid, until the validity certificates of their father and other relations, whose cases have been reopened, remain valid.

[NEERAJ P. DHOTE, J.]

[R.G. AVACHAT, J.]

KBP