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

919 WRIT PETITION NO. 1304 OF 2025

KONDIBA MAHADU NAGARWAD

VERSUS

1. THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY,
DEPARTMENT OF TRIBAL DEVELOPMENT
2. SCHEDULED TRIBE CERTIFICATE SCRUTINY COMMITTEE,
KINWAT, OFFICE AT CHHATRAPATI SAMBHAJINAGAR
3. DISTRICT COLLECTOR, NANDED

AND

949 WRIT PETITION NO. 1336 OF 2025

BABU BALIRAM NAGARWAD

VERSUS

1. THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY,
DEPARTMENT OF TRIBAL DEVELOPMENT
2. SCHEDULED TRIBE CERTIFICATE SCRUTINY COMMITTEE,
KINWAT, OFFICE AT CHHATRAPATI SAMBHAJINAGAR
3. KISAN SHIKSHAN PRASARAK MANDAL, UDGIR, LATUR
4. VIDYAVARDHINI HIGHSCHOOL, UDGIR, LATUR

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Mr Vivekanand U. Jadhav, Advocate for petitioners in both petitions
Mr S. V. Hange and A. V. Lavte, A.G.Ps. for respondents/State in
respective petitions

CORAM : MANGESH S. PATIL

AND

PRAFULLA S. KHUBALKAR, JJ.

DATE : 28th January, 2025

PER COURT:

1. Heard both the sides.
2. The common vigilance enquiry was resorted to by the
respondent/scrutiny committee in the matter of nine individuals

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including petitioner Kondiba. Having faced a similar invalidation, five individuals from amongst them, namely, Monika Kondiba Nagarwad, Pandurang Laxman Nagarwad, Vitthal Laxman Nagarwad, Bhagyoday Motiram Nagarwad and Sudarshan Motiram Nagarwad had challenged the said common order in Writ Petition No.13697/2021. Vide judgment and order dated 29/08/2024, that petition was allowed and the aforementioned five individuals were held entitled to have validity certificates co-terminus with the validity of Shivaji Namdev Nagarwad, which according to the committee, was obtained by practicing fraud.

3. Since it is a common set of evidence which had undergone a scrutiny of the committee, as also of this Court in respect of the aforementioned five individuals, since it is the same set of evidence even in respect of petitioner Kondiba Mahadu Nagarwad, it would be improper to come out with an independent scrutiny, much less, to arrive at an incompatible conclusion with the one arrived at in Writ Petition No.13697/2021.

4. Though petitioner Babu Baliram Nagarwad was not amongst the nine individuals in respect of whom the common vigilance enquiry was conducted, the committee has chosen to pass a

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common order in the matter of petitioner Kondiba and Babu and two other individuals, expressly observing that they are from the same family and that is why the committee had decided to verify their claims simultaneously and decided it by the common order. Meaning thereby, the selfsame evidence, for and against, has been used even for deciding the claim of petitioner Babu.

5. Though there are several allegations about manipulation and contrary record, it was expressly observed in Writ Petition No.13697/2021 that the enquiry into those can be gone into effectively in the matter of Shivaji Namdev Nagarwad, which was to be reopened, further making it clear that the Court in exercise of power under Article 226 of the Constitution of India in the process of examining sustainability of the judgment and order, whereby the claims were rejected, cannot embark upon an enquiry into the validity of Shivaji Namdev Nagarwad, who was not before the committee or this Court and is not even before us.

6. Needless to state that the petitioners would run the risk of facing consequences as apprehended in the matter of **Chairman and Managing Director, Food Corporation of India and others Vs. Jagdish Balaram Bahira and others, [(2017) 8 SCC 670]** and

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Shweta Balaji Isankar vs. The State of Maharashtra and others,
2018 SCC OnLine Bom 10363 (Writ Petition No.5611/2018).

7. The writ petitions are partly allowed. The impugned judgment and order dated 07/01/2025 which is common in both the petitions is quashed and set aside. The respondent/committee shall issue certificates of validity to both the petitioners as belonging to 'Koli Mahadev' Scheduled Tribe, which shall be co-terminus with the validity of Shivaji Namdev Nagarwad.

(PRAFULLA S. KHUBALKAR, J.) (MANGESH S. PATIL, J.)

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