

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.9521 OF 2016

Nalu Manik Ingole,
aged 51 years, residing at village Lamboti,
Tal. Mohod, Dist. Solapur ... Petitioner

Versus

1. State of Maharashtra,
through its Secretary, Social Justice
Department, Mantralaya, Mumbai-32.
2. Divisional Caste Certificate Scrutiny
Committee No.1, Solapur, through its
Member Secretary, having its office at
Solapur, Dist. Solapur.
3. Late Suresh R. Gaikwad (Guruji),
Prathamik Ashram Shala, Lamboti,
Tal.Mohod, Dist. Solapur. ... Respondents

...
Mr.R.K.Mendadkar with Ms.Komal Gaikwad and Mr.Siddhant Sawai
for the Petitioner.

Mr.Abhijeet K. Naik, AGP for Respondent Nos. 1 and 2, State.

...

**CORAM : RAVINDRA V. GHUGE &
M. M. SATHAYE, JJ.**

DATE : 09th JUNE, 2025

ORAL JUDGMENT (Per : Ravindra V. Ghuge, J.)

1. Rule. Rule made returnable forthwith and heard finally with
the consent of the parties.

2. By an interim order dated 20th August, 2016, the Petitioner was protected against coercive action in the light of the invalidation of her claim of belonging to Khatik Scheduled Caste category. By virtue of the said interim order, the Petitioner continued in service and superannuated on 30th November, 2024.

3. In the interregnum, though the Writ Petition was dismissed for default, by order dated 18th January, 2017 passed on Civil Application No. 138 of 2017, the Petition was restored along with the interim protection.

4. We have considered the submissions of the learned Advocates for the respective sides.

5. The learned AGP has vehemently opposed this Petition.

6. To crux of this case is the undisputed position that the biological sister of the Petitioner, namely, Mangala Manik Ingole was granted validity certificate on 23rd November, 2009. The cousin nephew of the Petitioner, namely, Narendra Ravindra Ingole was granted validity certificate on 18th May, 2007. It is also not disputed that the validity certificates granted to both these persons, have been undisturbed.

7. The learned AGP submits that the impugned judgment delivered in the case of the Petitioner dated 17th June, 2016 clearly indicates that the Committee found several discrepancies and adverse entries against the Petitioner. He further submits that no Vigilance Cell inquiry was conducted with regard to the claims of Mangala and Narendra. Without such Vigilance Cell inquiry, Mangala and Narendra were granted validity certificates.

8. We find that the contention of the learned AGP is covered by conclusions drawn by the Hon'ble Supreme Court in paragraphs 22, 23 and 24 in ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti vs. The State of Maharashtra and others, AIR 2023 SC 1657***. For the sake of clarity, we are reproducing paragraphs 22, 23 and 24, as under :

“22. We can also contemplate one more scenario which is found in many cases. These are the cases where the applicant relies upon caste validity certificates issued to his blood relatives. Obviously, such a validity certificate has to be issued either by the Scrutiny Committee constituted in terms of the directions issued in Kumari Madhuri Patil’s case (AIR 1995 SC 94) or constituted under the Rules framed under the 2000 Act. In such a case, firstly, the Scrutiny Committee must ascertain whether the certificate is genuine. Secondly, the Scrutiny Committee will have to decide whether the applicant has established that the person to whom the validity certificate relied upon by him has been issued is his blood relative. For that

purpose, the applicant must establish his precise and exact relationship with the person to whom the validity certificate has been granted. Moreover, an enquiry will have to be made by the Scrutiny Committee whether the validity certificate has been granted to the blood relative of the applicant by the concerned Scrutiny Committee after holding due enquiry and following due procedure. Therefore, if the Scrutiny Committee has issued a validity certificate contemplated in terms of the decision in the case of Kumari Madhuri Patil, the examination will be whether the enquiry contemplated by the said decision has been held. If the certificate relied upon is issued after coming into force of the 2000 Act, the Scrutiny Committee will have to ascertain whether the concerned Scrutiny Committee had followed the procedure laid down therein as well as in the ST Rules or the SC Rules, as the case may be. For this verification, the Scrutiny Committee can exercise powers conferred on it by Section 9 (d) by requisitioning the record of the concerned Caste Scrutiny Committee, which has issued the validity certificate to the blood relative of the applicant. If the record has been destroyed, the Scrutiny Committee can ascertain whether a due enquiry has been held on the basis of the decision of the Caste Scrutiny Committee by which caste validity has been granted to the blood relative of the applicant. If it is established that the validity certificate has been granted without holding a proper inquiry or without recording reasons, obviously, the caste scrutiny committee cannot validate the caste certificate only on the basis of such validity certificate of the blood relative.

23. In a given case, the Scrutiny Committee may be satisfied that the caste validity certificate relied upon by the applicant has been issued after making a lawful enquiry. But if the Scrutiny Committee is of the view that the applicant has not clearly established that the

person to whom caste validity certificate produced on record has been granted is his blood relative, in terms of subrule (2) of Rule 12 of the ST Rules, the Caste Scrutiny Committee will have to refer the case for conducting an enquiry through Vigilance Cell. In such a case, the Vigilance Cell can be directed by the Scrutiny Committee to conduct an enquiry limited to the relationship claimed by the applicant with the person in whose favour the caste validity certificate has been issued. If, on the basis of the report of the Vigilance Cell, the Scrutiny Committee is satisfied that the person in whose favour caste validity certificate has been issued is a blood relative of the applicant and lawful enquiry has been conducted before issuing the validity certificate, the Scrutiny Committee will have to issue validity certificate even if the applicant does not satisfy the affinity test. For example, if it is established that the father or grandfather of the applicant has been given a caste validity certificate after holding a lawful enquiry in accordance with law, the Caste Scrutiny Committee cannot hold that the grandfather or father of the applicant, as the case may be, belongs to Scheduled Tribe but the applicant does not belong to Scheduled Tribe. Only if the relationship as pleaded by the applicant is not established, the other evidence produced by the applicant and the result of the affinity test can be taken into consideration by the Scrutiny Committee.

24. As provided in subrule (7) of Rule 12 of the ST Rules, the Vigilance Cell's report is not conclusive. If on the basis of the report of the Vigilance Cell and other evidence on record, the Scrutiny Committee comes to a conclusion that the caste claim is genuine, a caste validity certificate can be issued. Only on the ground that the report of vigilance cell is in favour of the applicant, validity certificate cannot be mechanically granted without application of mind. If the report of the Vigilance Cell is against the

applicant, his caste claim cannot be rejected only on the basis of the report of the Vigilance Cell without providing a copy of the report to the applicant and without giving him an opportunity of being heard on the report. After giving an opportunity to the applicant to make submissions on the report, the Scrutiny Committee may reject the caste claim. In a given case, the Scrutiny Committee can also record a finding that the caste claim is genuine. It all depends on the facts of each case”.

9. It was, therefore, permissible for the Committee to conduct a Vigilance Cell inquiry in the case of the Petitioner. It is undisputed that, a Vigilance Cell inquiry was conducted in the Petitioner’s case. The Committee found certain discrepancies. As a consequence of the same, the claim of the present Petitioner, namely, Nalu Manik Ingole was rejected.

10. The peculiar situation is that the biological sister of the present Petitioner, namely, Mangala and the cousin nephew, namely, Narendra, who have been granted validity certificates on 23rd November, 2009 and 18th May, 2007 respectively, still enjoy the same status. No notice has been issued to either of these two persons for reopening their case in the light of the purported discrepancies and adverse entries noticed in the case of the present Petitioner, coupled with the fact that a Vigilance Cell inquiry was not conducted in their cases.

11. This Court considered a similar situation in ***Shweta Balaji***

Isankar vs. The State of Maharashtra and others, (2018 SCC Online Bom 10363). It has been concluded in paragraph nos. 2, 3, 4 and 8, which read thus :

“2. On the earlier occasion, we found that though the petitioner produced credible evidence in the form of certificates of validity issued to her real uncle Govind Sambhaji Isankar and which concededly has been issued way back on 5th December 2005 and another certificate of validity dated 5th September 2006 to his cousin uncle Ramdas Sambhaji Isankar, the Committee finds that the certificate of validity issued to the real uncle Govind, is not free from suspicion. It is held by the Committee in the impugned order that a notice to show cause has been issued to said Govind on 14th September 2017, calling upon him to show cause as to why this certificate of validity should not be cancelled as its issuance is vitiated by fraud or suppression of material facts by the said Govind.

3. On such a finding being rendered by the Committee, we called upon the learned AGP on the earlier two occasions to produce the record. We also indicated to the learned AGP as to how the certificate of validity is denied to the petitioner though she has established her relationship with the said Govind and only on the ground that a show cause notice has been issued, but no proceedings in furtherance thereof came to be initiated till date. The learned AGP sought time to file an affidavit. Now, the Joint Commissioner, Schedule Tribe Scrutiny Committee, Aurangabad has filed an affidavit in reply. That is taken on record. The said affidavit admits that the certificate of validity has been issued to her real uncle and cousin uncle of the petitioner. The affidavit admits that the petitioner relies heavily on these two documents, but clarifies that there is a suppression detected from the original record of

the certificate holder and that is how a show cause notice has been issued to Govind. The show cause notice could not be taken to its logical end on account of the huge pendency of cases before this Committee. In all, 7,000 matters were pending on the date when this Joint Commissioner took charge and he has reduced the pendency by 2500 cases being decided. In the circumstances, he says that appropriate orders and directions be issued by this Court.

4. We are not impressed by this explanation and the justification not to proceed against a person who has perpetrated a fraud on the public. If it is a serious allegation and which is termed as fraud, then, it should have been taken to its logical end. Mere issuance of a show cause notice in the present case would not suffice for there are two certificates of validity relied upon. The only reason assigned in the impugned order to discard them, cannot be sustained. The justification in the above affidavit is also not enough to straightaway discard the certificates of validity issued in the family. It is conceded that other reasons assigned in the impugned order cannot be supported in law.

8. This order does not prevent the Committee from proceeding against Govind in accordance with law and needless to further clarify that in the event Govind's claim is invalidated, all the consequences shall be taken by the petitioner as well."

12. As such, the learned Advocate for the Petitioner contends that when neither of the two validity holders have been subjected to any reopening of the case on the basis of the purported discrepancies noticed in the case of the present Petitioner. It would be harsh to deprive the Petitioner

of a validity certificate. However, it cannot be over-looked that no Vigilance Cell inquiry was conducted with regard to either of the validity certificate holders, when they were granted the said status.

13. We find it appropriate to rely upon ***Shweta Balaji Isankar*** while considering the contention of the Petitioner. In short, the present Petitioner cannot be deprived of the validity certificate when her biological sister and the biological cousin nephew have received such validity certificate. However, we can not lose sight of the observations of the Hon'ble Supreme Court in paragraph 22 of Maharashtra Adiwas Thakur Jamat (supra) which read as under :

“22. We can also contemplate one more scenario which is found in many cases. These are the cases where the applicant relies upon caste validity certificates issued to his blood relatives. Obviously, such a validity certificate has to be issued either by the Scrutiny Committee constituted in terms of the directions issued in Kumari Madhuri Patil’s case (AIR 1995 SC 94) or constituted under the Rules framed under the 2000 Act. In such a case, firstly, the Scrutiny Committee must ascertain whether the certificate is genuine. Secondly, the Scrutiny Committee will have to decide whether the applicant has established that the person to whom the validity certificate relied upon by him has been issued is his blood relative. For that purpose, the applicant must establish his precise and exact relationship with the person to whom the validity certificate has been granted. Moreover, an enquiry will have to be made by the Scrutiny

Committee whether the validity certificate has been granted to the blood relative of the applicant by the concerned Scrutiny Committee after holding due enquiry and following due procedure. Therefore, if the Scrutiny Committee has issued a validity certificate contemplated in terms of the decision in the case of Kumari Madhuri Patil, the examination will be whether the enquiry contemplated by the said decision has been held. If the certificate relied upon is issued after coming into force of the 2000 Act, the Scrutiny Committee will have to ascertain whether the concerned Scrutiny Committee had followed the procedure laid down therein as well as in the ST Rules or the SC Rules, as the case may be. For this verification, the Scrutiny Committee can exercise powers conferred on it by Section 9 (d) by requisitioning the record of the concerned Caste Scrutiny Committee, which has issued the validity certificate to the blood relative of the applicant. If the record has been destroyed, the Scrutiny Committee can ascertain whether a due enquiry has been held on the basis of the decision of the Caste Scrutiny Committee by which caste validity has been granted to the blood relative of the applicant. If it is established that the validity certificate has been granted without holding a proper inquiry or without recording reasons, obviously, the caste scrutiny committee cannot validate the caste certificate only on the basis of such validity certificate of the blood relative”

[Emphasis supplied]

14. Therefore, it would be appropriate to allow the Committee to reopen the cases of these two validity certificate holders and conduct a Vigilance Cell inquiry. If it is noticed, after conducting a Vigilance Cell

inquiry, that they were not entitled for such certificates, the consequences that would befall upon either of these two persons, would also befall upon the present Petitioner.

15. In view of the above, **this Writ Petition is partly allowed.**

16. The impugned order dated 17th June, 2016 stands quashed and set aside. The Competent Committee would issue the Khatik Scheduled Caste validity certificate to the Petitioner, within a period of 30 days from today on the condition that the Committee can reopen the case of the biological sister Mangala and the cousin nephew Narendra by following the dictum set out in ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti (supra)***. If the validity certificates issued to either of these two are sustained after the Vigilance Cell inquiry in their re-opened cases, there would be no reason to touch the case of the present Petitioner. However, if the validity certificates issued to both of them are recalled/cancelled, the Petitioner will face the same consequence.

17. Needless to state, the legal remedies available to these individuals are kept open.

18. Rule is made partly absolute in the above terms.

19. Since the Petitioner has superannuated, by virtue of this order, she would be entitled for all service benefits, subject to the aforesaid conclusions.

(M. M. SATHAYE, J.)

(RAVINDRA V. GHUGE, J.)