IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9173 OF 2019

Saurabh S/o Shivanna Goskulwar,
Age : 22 years, Occu. : Education,
R/o Madnapur, Tq. Mahur,
Dist : Nanded. .. Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary,
Medical Education and Drugs Department
Mantralaya, Mumbai.

2. The Scheduled Tribe Caste Certificate
Verification Committee, Aurangabad,
Through its Dy. Director (R),
Aurangabad, Dist. Aurangabad. .. Respondents

WITH
WRIT PETITION NO. 9175 OF 2019

Shivanna S/o Narsing Goskulwar,
Age : 47 years, Occu. : Education,
R/o Madnapur, Tq. Mahur,
Dist : Nanded. .. Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary,
Medical Education and Drugs Department
Mantralaya, Mumbai.

2. The Scheduled Tribe Caste Certificate
Verification Committee, Aurangabad,
Through its Dy. Director (R),
Aurangabad, Dist. Aurangabad.

3. The Chief Executive Officer,
Zilla Parishad, Nanded,
Dist. Nanded.

4. The Block Education Officer,
Education Department,
Panchayat Samiti, Mahur,
Dist. Nanded. .. Respondents

WITH
WRIT PETITION NO. 9174 OF 2019

Sushant S/o Shivanna Goskulwar,
Age : Minor, Occu. : Education,
R/o Hedgewar Nagar, Kinwat,
Tq. Kinwat, Dist. Nanded,
Through father & natural guardian,
Shivanna S/o Narsing Goskulwar,
Age : 47 years, Occu. : Service,
R/o As above. .. Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary,
Medical Education and Drugs Department
Mantralaya, Mumbai.

2. The Scheduled Tribe Caste Certificate
Verification Committee, Aurangabad,
Through its Dy. Director ®,
Aurangabad, Dist. Aurangabad.

3. The Commissioner & Competent Authority
Commissionerate of Common Entrance
Test Cell, Government of Maharashtra,
8th Floor, New Excelsior Building,
A. K. Naik Marg, Fort, Mumbai. .. Respondents

Shri Sunil M. Vibhute, Advocate for the Petitioner in all matters.
Shri P. S. Patil, Addl.G.P. for the Respondent Nos. 1 and 2 in all matters.
Shri Parvez Shaikh, Advocate h/f Shri S. B. Pulkundwar, Advocate for Respondent Nos. 3 and 4 in W. P. No. 9175 of 2019.

CORAM : MANGESH S. PATIL AND
SHAILESH P. BRAHME, JJ.

CLOSED FOR JUDGMENT ON : 24.09.2024
JUDGMENT PRONOUNCED ON : 01.10.2024

JUDGMENT (***Per Shailesh P. Brahme, J.***) **:-**

. Rule. Rule is made returnable forthwith. Heard both the sides finally at the admission stage with consent as there is exigency to the petitioners.

2. These three petitions are emanating from common judgment and order dated 18.07.2019 passed by the respondent No. 2/Scrutiny Committee thereby confiscating and invalidating tribe certificates of the petitioners as belonging to 'Mannervarlu' scheduled tribe. There is common record to assess their social status. We propose to decide all these petitions by this common judgment. For the sake of convenience, we propose to refer to papers in Writ Petition No. 9173 of 2019.

3. Petitioners Saurabh and Sushant are real brothers and petitioner in third petition is their father. They are challenging common judgment and order dated 18.07.2019 rejecting their tribe claims. They are relying on the validity certificates issued to Prachi Bhagwanrao Goskulwar dated 15.07.2008, Vasant Nanaji Goskulwar dated 19.05.2009 and Subhash Nana Goskulwar dated 06.04.2010. They are also relying on the old school record of Nana Shivayya Goskulwar dated 22.06.1927 and Bankanna Shivayya of the year 1935.

4. The learned counsel Mr. Sunil Vibhute appearing for the petitioners would submit that in view of validities issued to the close blood relatives, the tribe claims should not have been rejected. He would vehemently submit that old school record of Shivayya and Bankanna is of pre-independence period having greater probative value has been discarded arbitrarily. He would submit that unless earlier validities are revoked, the petitioners cannot be denied the same social status. It is further submitted that the petitioners are ready to face the consequences as contemplated in the matter of **Shweta Balaji Isankar Vs. The State of Maharashtra and others judgment dated 27 July 2018 in W. P. No. 5611 of 2018**.

5. It is submitted that Prachi is the first validity holder who was issued with the validity certificate after conducting vigilance enquiry and considering favourable as well as contrary entries. The self same record has been pressed into service by the petitioners. Therefore, the impugned order is arbitrary and discriminatory.

6. The learned Additional Government Pleader Mr. P. S. Patil would repel the submissions of the petitioners. He tenders on record original papers of earlier validity holders. He would submit that first validity holder Prachi was issued with the validity certificate without conducting proper enquiry. The pre-independence entries of Shivayya and Bankanna are found to be bogus considering correspondence of the vigilance officer with the

concern school. If those entries are ignored, then older school record discovered during the vigilance is incompatible. He would further submit that by the impugned order an action has been initiated against Mr. Musale, the then Vigilance Officer, who misled earlier committee in respect of entries of Shivanna and Bankanna.

7. The learned Addl. G. P. further submits that other validity holders are banking on the validity of Prachi. Her validity is under cloud. Therefore, the Committee has rightly discarded those certificates. If the petitioners are granted validity, then that would amount to perpetuation of fraud and mischief.

8. We have considered rival submissions. The petitioners are relying on validities of Prachi Bhagwan Goskulwar, Vasant Nanaji Goskulwar and Subhash Nanaji Goskulwar. Prachi is the first validity holder relying on whose validity Vasant and Subhash were issued with the validity certificates. Vigilance enquiry was conducted in the matter of Prachi. The incompatible school record was considered in her case, which is as follows :

Sr. No.	Name of Person	Name of school	Date of Admission	Caste recorded in school
1	Kishan Bankanna	Z. P. Primary School Madnapur	27.07.1962	Munnurwar
2	Ramrao Bankanna	- - “ - -	04.07.1966	Munnurwar
3	Deubai Nana	- - “ - -	03.07.1967	Munnurwar

4	Shashikala Bankanna	- - “ - -	07.07.1969	Munurwar
5	Bhagwan Nana	- - “ - -	24.09.1970	Telgi Munurwad
6	Vasant Nana	- - “ - -	07.07.1975	Munnurwad

Simultaneously, supporting school record of Ramchandra Bankanna Goskulwar of 01.07.1971 and Subhash Nana of 15.07.1974 showing caste as Munnurvarlu and Mannervarlu was also verified.

09. The order of the scrutiny committee in the case of Prachi shows that vigilance cell found out school record of Shivayya Nana of 22.06.1927 and Bankanna Shivayya of 28.06.1935 and a report was called for. It was reported by the vigilance officer vide letter dated 16.05.2008 that the above record was genuine. Precisely, being impressed by the pre-independence record, having greater probative value, the Committee issued validity certificate to Prachi.

10. While conducting vigilance in the present matter it was disclosed that the above record was fictitious and bogus. The Committee verified from Head Master of the concerned school vide letter dated 15.07.2019 as to the existence of the entries of Nana Shivayya and Bankanna Shivayya. It was reported by the Head Master by letter dated 17.07.2019 that the school was established in the year 1939 (Fasli 1349). Thus school record of Nana Shivayya of 1927 and Bankanna Shivayya of 1935 is *ex-facie* fictitious and bogus. The vigilance officer Mr. Musale had

given a false report and that could not have happened without connivance of Prachi. By impugned order the Committee has initiated an action against the then erring vigilance officer Mr. Musale.

11. Thus, the first validity of Prachi is tainted with bogus record and conduct of connivance to usurp caste benefits. Once the pre-independence bogus entries are ignored, what remains is abundant contrary record from 1962 to 1979. We have no hesitation to hold that validity certificate of Prachi was not issued in accordance with law, rather, it was dishonestly got issued.

12. Though there are other validities of Vasant Nana and Subhash Nana, they were issued on the basis of validity of Prachi and considering self same bogus record. No endeavour was made to verify the genuineness of old entries of 1927 and 1935 from the school concerned. There is no reason for us to rely on those validities due to absence of any independent material and in depth enquiry.

13. The learned Addl. G. P. Mr. P. S. Patil has rightly submitted that validities of Prachi and others are bordering fraud. He is justified in pointing out the mischief of the then vigilance officer and the action initiated against him. We are not examining the matter as an appellate forum. We are of the considered view that the validities pressed into service cannot be relied on considering the principles laid down by the Supreme

Court in the matter of Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others reported in *2023 SCC Online SC 326*.

14. Interestingly, the petitioners have not relied on the pre-independence record of Nana Shivayya and Bankanna Shivayya. When this pre-independence record was supporting their claims, naturally they would have relied upon those before the Committee. The record was suppressed, but unsuccessfully as during vigilance those entries were discovered and foul play was unearthed. This reflects on the conduct of the petitioners who are seeking equitable relief from this Court in the writ jurisdiction.

15. The learned Addl. G. P. has referred to following incompatible school record of close blood relatives of the petitioners, whose relationship has not been disputed.

Sr. No.	Name of Person	Relationship with the petitioner Sushant	Caste recorded	Date of admission
1	Kishan Bankanna	Cousin grandfather	Munnurwar	27.07.1962
2	Deubai Nana	Sister of cousin grandfather	Munnurwar	03.07.1967
3	Ramrao Bankanna	Cousin grandfather	Munnurwar	04.07.1966
4	Sheshikala Bankanna	Sister of grandfather	Munnurwar	07.07.1969

5	Bhagwan Nana	Cousin grandfather	Munnurwar	24.09.1970
6	Subhash Nana	Cousin grandfather	Mannervarlu	15.07.1974
7	Vasant Nana	Cousin grandfather	Munnrwad	07.07.1975

16. The above referred school record was before the Committee in the matter of first validity holder Prachi, but being influenced by the bogus pre-independence entries, validity was issued to her. The record referred to above is undisputedly older than the favourable record pressed into service by the petitioners. The comparison reveals that oldest entry of 27.07.1962 of Kishan Bankanna is of Munnurwar followed by entry of Ramrao Bankanna of 1966 and so on. We have not come across any convincing material to corroborate the petitioners' claims. Thus, we find that the Committee has rightly appreciated the material on record and has arrived at reasonable and plausible conclusion. No case is made out to interfere with the impugned judgment and order.

17. There is no merit in all the petitions. The writ petitions are dismissed. Rule is discharged. There shall be no order as to costs.

[SHAILESH P. BRAHME, J.] [MANGESH S. PATIL, J.]

18. After pronouncement of the judgment, learned advocate for the petitioners submits that by way of interim relief, the

petitioner in Writ Petition No. 9175 of 2019 has been protected being in the employment and the protection may be continued for the reasonable time to enable the petitioner to approach the Supreme Court.

19. Interim protection of the petitioner in Writ Petition No. 9175 of 2019 stands extended till 18.10.2024.

[SHAILESH P. BRAHME, J.] **[MANGESH S. PATIL, J.]**

bsb/Sept. 24