



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO.8316 OF 2025

1. Santosh Anil Kolhe,  
Age : 41 years, Occu: Service,  
R/o. Jamb, Tq. Mukhed,  
Dist. Nanded.

..Petitioner

**VERSUS**

1. The State Of Maharashtra,  
Through It's Secretary,  
Tribal Development Department,  
Mantralaya, Mumbai-32.
2. The Scheduled Tribe Certificate,  
Scrutiny Committee, Kinvat,  
Head Quarter, Chh. Sambhajinagar

..Respondents

WITH  
CIVIL APPLICATION NO.7914 OF 2025  
IN  
WRIT PETITION NO. 8316 OF 2025

1. Digambar S/o Vitthalrao Dhawle,  
Age: 63 years, Occu: Pensioner,  
R/o: Dhawle Niwas, Samta Nagar,  
Mukhed, Tq. Mukhed, Dist. Latur.

..Applicant

**VERSUS**

1. The State Of Maharashtra,  
Through It's Secretary,  
Tribal Development Department,  
Mantralaya, Mumbai-32.
2. Santosh s/O Anil Kolhe,  
Age : 44 years, Occu: Service,  
R/o. At Post Jamb (Bu), Tq. Mukhed,  
Dist. Nanded.
3. The Scheduled Tribe Certificate,  
Scrutiny Committee, Kinvat.

..Respondents

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**AND**

**WRIT PETITION NO.8318 OF 2025**

1. Sham Anil Kolhe,  
Age : 39 years, Occu: Service,  
R/o. Jamb, Tq. Mukhed,  
Dist. Nanded.

..Petitioner

**VERSUS**

1. The State Of Maharashtra,  
Through It's Secretary,  
Tribal Development Department,  
Mantralaya, Mumbai-32.
2. The Scheduled Tribe Certificate,  
Scrutiny Committee, Kinvat,  
Head Quarter, Chh. Sambhajinagar

..Respondents

**WITH  
CIVIL APPLICATION NO.7912 OF 2025****IN  
WRIT PETITION NO. 8318 OF 2025**

1. Digambar S/o Vitthalrao Dhawle,  
Age: 63 years, Occu: Pensioner,  
R/o: Dhawle Niwas, Samta Nagar,  
Mukhed, Tq. Mukhed, Dist. Latur.

..Applicant

**VERSUS**

1. The State Of Maharashtra,  
Through It's Secretary,  
Tribal Development Department,  
Mantralaya, Mumbai-32.
2. Sham S/o Anil Kolhe,  
Age : 40 years, Occu: Service,  
R/o. At Post Jamb (Bu), Tq. Mukhed,  
Dist. Nanded.
3. The Scheduled Tribe Certificate,  
Scrutiny Committee, Kinvat.

..Respondents

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**AND**

**WRIT PETITION NO.8328 OF 2025**

1. Sharad Arunrao Kolhe,  
Age : 37 years, Occu: Service,  
R/o. Jamb, Tq. Mukhed,  
Dist. Nanded.

..Petitioner

**VERSUS**

1. The State Of Maharashtra,  
Through It's Secretary,  
Tribal Development Department,  
Mantralaya, Mumbai-32.
2. The Scheduled Tribe Certificate,  
Scrutiny Committee, Kinvat,  
Head Quarter, Chh. Sambhajinagar

..Respondents

**WITH  
CIVIL APPLICATION NO.7913 OF 2025**

**IN  
WRIT PETITION NO.8328 OF 2025**

1. Digambar S/o Vitthalrao Dhawle,  
Age: 63 years, Occu: Pensioner,  
R/o: Dhawle Niwas, Samta Nagar,  
Mukhed, Tq. Mukhed, Dist. Latur.

..Applicant

**VERSUS**

1. The State Of Maharashtra,  
Through Principal Secretary,  
Social Welfare Department,  
Mantralaya, Mumbai-32.
2. Sharad S/o Arunrao Kolhe,  
Age : 42 years, Occu: Service,  
R/o. At Post Jamb (Bu), Tq. Mukhed,  
Dist. Nanded.
3. The Scheduled Tribe Certificate,  
Scrutiny Committee, Kinvat.

..Respondents

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**AND**

**WRIT PETITION NO.8337 OF 2025**

1. Balaji Arunrao Kolhe,  
Age : 41 years, Occu: Service,  
R/o. Jamb, Tq. Mukhed,  
Dist. Nanded.

..Petitioner

**VERSUS**

1. The State Of Maharashtra,  
Through It's Secretary,  
Tribal Development Department,  
Mantralaya, Mumbai-32.
2. The Scheduled Tribe Certificate,  
Scrutiny Committee, Kinvat,  
Head Quarter, Chh. Sambhajinagar

..Respondents

**WITH  
CIVIL APPLICATION NO.7986 OF 2025  
IN  
WRIT PETITION NO.8337 OF 2025**

1. Digambar S/o Vitthalrao Dhawle,  
Age: 63 years, Occu: Pensioner,  
R/o: Dhawle Niwas, Samta Nagar,  
Mukhed, Tq. Mukhed, Dist. Latur.

..Applicant

**VERSUS**

1. The State Of Maharashtra,  
Through Principal Secretary,  
Social Welfare Department,  
Mantralaya, Mumbai-32.
2. Balaji S/o Arunrao Kolhe,  
Age : 42 years, Occu: Service,  
R/o. At Post Jamb (Bu), Tq. Mukhed,  
Dist. Nanded.
3. The Scheduled Tribe Certificate,  
Scrutiny Committee, Kinvat.

..Respondents

...

- Mr. Pratap V. Jadhavar, Advocate for the Petitioners in all WPs.
- Mr. R. D. Biradar, Advocate for the Applicant in all CAs.
- Mr. S. P. Sonpawale and Ms. Saie S. Joshi, AGPs for Respondents-State in all WPs.

CORAM : MANISH PITALE &  
Y. G. KHOBRADE, JJ.

DATE : 04.08.2025

**ORDER (PER : MANISH PITALE, J.)**

1. In these petitions the Petitioners have challenged orders dated 15.05.2025 passed by the Respondent – Scrutiny Committee, whereby, earlier orders granting validity certificates to the tribe claims of the petitioners have been cancelled and their claims have been invalidated. The Scrutiny Committee has exercised power, in effect, to recall its own earlier orders on the ground that such orders were obtained by the petitioners on the basis of suppressions and misrepresentations.

2. The learned counsel for the Petitioners in these petitions have relied upon judgment of this Court in the case of *Rakesh Bhimashankar Umbarje Vs. State of Maharashtra and Ors.; 2023 63 OnLine Bom 1013* to contend that the Scrutiny Committee does not have the power to recall or review its own orders, even if issues of fraud or misrepresentation arise. It is contended that since the Scrutiny Committee is a creature of a statute i.e. the Maharashtra Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 (herein after referred to as the Act of 2000), which does not provide for power of review, the impugned orders are unsustainable.

3. It is specifically submitted on behalf of the petitioners that this Court on earlier occasions, by relying upon the said judgment, has stayed such orders and even *suo moto* notices for recalling of earlier orders have been stayed by this Court on the basis of the said position of law.

4. The learned counsel for the Petitioners also relied upon judgments of this Court in the cases of *Bharat Nagu Garud Vs. State of Maharashtra and Ors.*; 2024 (7) ALL MR 45 and *Anil Shivram Bandawar Vs. District Caste Certificate Verification Committee and another*; 2021 (5) Mh.L.J. 345.

5. The learned AGPs submit that various benches of this Court have taken the view that since fraud vitiates everything, despite absence of power in the Scrutiny Committee to review its own orders, it would still not denude the Scrutiny Committee of its power of revisiting an order which is obtained on the basis of fraud or misrepresentation. In this context reliance is placed on judgment of this Court in the case of *Rajeshwar Baburao Bone Vs. State of Maharashtra and another* (Judgment and Order dated 17.12.2013 passed in Writ Petition No.5160/2012, which was confirmed by the Supreme Court in its Judgment in the case of *Rajeshwar Baburao Bone Vs. State of Maharashtra and another* ; (2015) 14 SCC 497. Reliance was also placed on other judgments of different benches of this Court such as *Shakila Begum Faiyyazuddin Vs. The State of Maharashtra and Ors.* (Judgment

*and order dated 26.04.2018 passed in Writ Petition No.7518/2016), Jyoti Sheshrao Mupde Vs. State of Maharashtra and Ors. (Order dated 22.08.2012 passed in Writ Petition No.1954/2009), Sangita Sharad Kolse Vs. State of Maharashtra and Ors.; 2006 SCC OnLine Bom 1743, Vishnu Rajaram Thakar Vs. State of Maharashtra and Anr.; 2022(3) Mh.L.J.629 and Farha Ashfaqali Shaha Vs. Member Secretary and Research Officer, Caste Certificate Scrutiny Committee; 2019 SCC OnLine Bom 4206.*

6. We are of the opinion that in the light of the aforesaid judgments relied upon by the rival parties, important questions of law arise for consideration. There appears to be an apparent cleavage in the approach adopted by the various division benches on the question as to whether the Scrutiny Committee can at all exercise power to recall its own earlier orders on the limited ground that such orders were obtained by fraud or misrepresentation. In this context, it would be appropriate to refer to the relevant portions of the aforementioned judgments.

7. In the case of **Rakesh Bhimashankar Umbarje Vs. State of Maharashtra** (supra) a division bench of this Court while considering a challenge raised to *suo moto* notices issued by the Scrutiny Committee for recalling its earlier order, after referring to the relevant provisions of the Act of 2000, held as follows :

*24. Thus, a 'caste certificate' is certainly not a 'caste validity certificate', as issuance of a caste validity certificate is an independent exercise to be undertaken by the Caste Scrutiny Committee by exercising its quasi-judicial powers. It is hence clear that the power conferred on the Caste Scrutiny*

*Committee under sub-section (1) of Section 7 to enquire into any false caste certificate and form an opinion that a caste certificate was obtained fraudulently and to cancel and confiscate the certificate as ordered in sub-section (1) of Section 7, cannot be read to mean that the Caste Scrutiny Committee has the power to review its own orders/decisions granting caste validity certificate in case of a complaint being made that the caste validity certificate has been obtained fraudulently by any applicant seeking validity of the caste certificate.*

25. *It is quite clear from the reading of sub-section (2) that not only such orders passed by the Caste Scrutiny Committee under sub-section (1) but orders passed by the Scrutiny Committee under the provisions of "the Act", which would include a grant of a caste validity certificate, shall be final and cannot be challenged before any Authority or Court except the High Court under Article 226 of the Constitution of India. This clearly infers that once a decision is taken by the Caste Scrutiny Committee either under the provisions of sub-section (1) of Section 7 or under the provisions of Section 6, the Caste Scrutiny Committee becomes functus officio, and such decision can only be assailed by approaching the High Court under Article 226 of the Constitution of India. There cannot be any other reading from the provisions of sub-section (2) of Section 7.*
26. *Thus, from the scheme of the legislation it is clear that the Caste Scrutiny Committee would not have any jurisdiction to review/revisit its own orders and decisions granting caste validity certificates. This would also be clear from the reading of Section 9. It may also be observed that the legislature is conscious in making available limited powers of the Civil Court to the Competent Authority, Appellate Authority and the Scrutiny Committee, which are specifically enumerated in Section 9. The legislature has consciously avoided to confer the powers of a review as envisaged under Section 114, read with provisions of Order 47 of the Code of Civil Procedure. Once such provision conferring powers of a review are excluded in their application to the Caste Scrutiny Committee, there is no question of such powers being conferred by any implication under any circumstances.*
27. *Considering the provisions of sub-section (1) of Section 7, consciously, the legislature has not conferred powers on the authority issuing caste certificate to revisit the decision to issue caste certificate and cancel the same in view of fraud and misrepresentation. Such power is conferred on a higher*



*authority, namely on the Caste Scrutiny Committee. The contention of the learned AGP that because the Caste Scrutiny Committee had issued validity certificate, it would have jurisdiction to revisit/review its decision when there is fraud and misrepresentation is totally untenable. As noted above, the legislature was fully conscious of the fact that a validity certificate could be obtained from the Caste Scrutiny Committee by playing fraud, however, consciously, the legislature has avoided to confer any power of review on the Caste Scrutiny Committee to review/revisit its own decision even in case of fraud, misrepresentation or suppression of material facts. In fact, such an interpretation would defeat the mandate of sub-section (2) of Section 7.*

- 28. It would need no emphasis that the power to review any order in the nature of the order passed by the Scrutiny Committee would be the power required to be expressly conferred by the provisions of the legislation under which the Caste Scrutiny Committee functions.*
- 29. If the contention, as urged on behalf of the respondent, that the Scrutiny Committee has jurisdiction to review its own decision/orders, although not expressly conferred by law, is accepted, the situation is just to be imagined, inasmuch as on any complaint alleging fraud and in respect of cases wherein the validity to a caste certificate has been continued by substantive orders passed by the Caste Scrutiny Committee or under orders passed by the High Court or the Supreme Court, cannot be reopened by the Caste Scrutiny Committee on any complaint of fraud. This certainly is not the intention of the legislation to unsettle the concluded issues wherein the caste validity certificates are granted as per law and under orders passed by the higher Courts. It is for such reason the legislature has categorically avoided conferring any powers of review on the Caste Scrutiny Committee.*
- 30. We are thus of the clear opinion that in the event a complaint being made in regard to any validity certificate granted by Caste Scrutiny Committee to be vitiated by fraud or illegality, the only course open to such a complainant or otherwise any person/authority is to approach the High Court by invoking the provisions of Article 226 of the Constitution and seek its interference in setting aside the validity certificate granted in favour of such person in view of the clear provisions of sub-section (2) of Section 7 of the Act. It is in such proceedings under Article 226 the Court would be required to apply its mind as to whether the allegations of fraud or any illegality are of such nature that the decision of the Caste Scrutiny*

*Committee was vitiated and is required to be set aside. This would assume more significance as a grant of caste validity certificate confers substantive rights on the person holding such certificate, by virtue of which a right in rem is conferred on such person on the basis of such caste validity certificate.*

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34. *As the Caste Scrutiny Committee has no powers to review, there is no question of any suo motu powers to be exercised by the Caste Scrutiny Committee and in any exercise of such suo motu jurisdiction would be invalid, illegal and contrary to the provisions of the Act.*
35. *We are not inclined to accept the contention as urged by the learned AGP relying on Rajeshwar Baburao Bone (supra), firstly, for the reason that this is not a decision on a proposition that the Caste Scrutiny Committee has substantive powers to review its own decision. Secondly, such is not the ratio of the said judgment and thirdly, the facts of the present case are altogether different from that case. Significantly, in Rajeshwar Baburao Bone (supra), the petitioner got the validity certificate in 2010, however, the petitioner's brother had his tribe certificate cancelled in 2004. In the present case, the petitioners received validity based on the validity certificates of their blood relatives, which were granted under the orders of the Court and have not been revoked or cancelled yet.*

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37. *Thus, for all the above reasons, we find it difficult to approve the legality of the impugned notice/action of the respondent-Scrutiny Committee. We are, therefore, of the view that the respondent-Scrutiny Committee has acted without jurisdiction while issuing the impugned notice. The respondent-Scrutiny Committee's action to reopen the validity proceedings by its impugn notice cannot be justified. In our considered view, this action of the respondent-Scrutiny Committee is unsustainable in law, perverse and vitiated by complete disregard to the judicial pronouncements. Accordingly, we quash and set aside the impugned notice of the respondent-Scrutiny Committee."*

8. Subsequently, the aforesaid judgment was relied upon by a subsequent division bench of this Court in the case of **Bharat Nagu Garud**

**Vs. State of Maharashtra and others** (supra). In the said judgment, after relying upon the aforementioned judgment in the case of **Rakesh Bhimashankar Umbarje Vs. State of Maharashtra** (supra), a note of caution was struck by observing as follows :

44. *This apart, in our opinion, if in a situation that a Caste Scrutiny Committee has granted validity to a caste certificate and the same is being questioned later on (in present cases after long lapse of time) it can only be on a prima facie satisfaction of the High Court in any acceptable and legitimate proceedings under Article 226 of the Constitution that such a plea needs to be accepted for reopening/re-examination of the issue by the Caste Scrutiny Committee, and not otherwise. There cannot be a free hand or a licence to the Caste Scrutiny Committee to reopen concluded cases of validity being conferred by it by its earlier orders to be revisited or re-examined on a complaint or otherwise and review its orders.*
45. *Also such contentions as urged on behalf of the State that the Caste Scrutiny Committee has inherent powers to review its own orders would lead to devastating consequences, as rightly urged on behalf of the petitioners. Such consequence would be:—*
  - (i) *That the Caste Scrutiny Committee would be permitted to form its subjective opinion on a decision taken by a co-ordinate Committee irrespective of the period when such decision was taken either suo motu or otherwise;*
  - (ii) *A pure subjective opinion of the Caste Scrutiny Committee would be as to what according to it would be a case of misrepresentation and fraud, so as to reopen concluded case of an earlier validity being granted;*
  - (iii) *Such reopening of the validity already granted would be without any restriction as to limitation (as in the present case), creating a situation to unsettle concluded issues;*
  - (iv) *Even to make allegations of a fraud on a concluded issued under the general law would be covered by a prescribed period limitation. Even if validity has been fraudulently obtained, it cannot be that on an allegation of fraud in a given case, issues can be reopened after such enormous delay of 15 to 20 years although it may be a consideration to decide future cases.*
46. *Thus in our opinion, the Caste Scrutiny Committee, being a statutory body exercising quasi adjudicatory functions, would not*

*have any jurisdiction to suo motu verify the past records and initiate an action to reopen past decision and invalidate the caste validity certificates already granted. If an inherent power of review is to be read in the provisions of the 2000 Act, it would lead to a monumental uncertainty and absurdity in the functioning of the Caste Scrutiny Committee, as it can be at the ipse dixit of the Caste Scrutiny Committee to reopen concluded cases. This would lead to patent arbitrariness. For such reasons, it is not possible to come to a conclusion that any inherent power of review is available with the Caste Scrutiny Committee.*

9. In the case of **Anil Shivram Bandawar Vs. District Caste Certificate Verification Committee, Gadchiroli and another** (supra) a division bench of this Court found that since the Scrutiny Committee itself in the show cause notice had not found that its earlier order had been obtained by fraud, such show cause notice was held to be without jurisdiction.

10. In the case of **Ayaaubkhan Noorkhan Pathan Vs. State of Maharashtra and Ors.; AIR 2013 SC 58**, the Supreme Court considered a question as to whether a complainant could approach the Scrutiny Committee challenging the validity of caste/tribe certificate of a rival. The question of *locus standi* of such person was considered and eventually it was held as follows :

22. *Thus, from the above it is evident that under ordinary circumstances, a third person, having no concern with the case at hand, cannot claim to have any locus-standi to raise any grievance whatsoever. However, in the exceptional circumstances as referred to above, if the actual persons aggrieved, because of ignorance, illiteracy, inarticulation or poverty, are unable to approach the court, and a person, who has no personal agenda, or object, in relation to which, he can grind his own axe, approaches the court, then the court may examine the issue and in exceptional circumstances, even if his bona fides are doubted, but the issue raised by him, in the opinion of the court, requires consideration, the court may proceed suo motu, in such respect.*

11. We find that the Division Benches of this Court in the cases of ***Rakesh Bhimashankar Umbarje Vs. State of Maharashtra (supra)*** and ***Bharat Nagu Garud Vs. State of Maharashtra and others (supra)*** even after taking note of the judgment of the Supreme Court in the case of ***Rajeshwar Baburao Bone Vs. State of Maharashtra and another (supra)*** laid down a wide proposition that even if an allegation is made that the order of the Scrutiny Committee has been obtained by fraud or misrepresentation, the Scrutiny Committee would not have power to recall its own order, for the reason that the Scrutiny Committee does not have power to exercise review jurisdiction.

12. We find that the judgments relied upon by the learned AGPs demonstrate that while it is acknowledged by the other benches of equal strength of this Court that the Scrutiny Committee, being a creation of the Act of 2000, which does not provide for a power of review, cannot exercise such power of review and yet it has been held that when fraud or misrepresentation is demonstrated the Scrutiny Committee can recall its orders.

13. The relevant observations in the said judgments need to be referred to. In the case of ***Shakila Begum Faiyyazuddin Vs. State of Maharashtra (supra)***, a division bench of this Court while considering such a situation held as follows :

*12. It is settled proposition of law that fraud vitiates every solemn act. If a candidate practices fraud upon the Scrutiny Committee and the earlier validity is granted on account of the fraud practiced upon it,*

*then in such a case the Scrutiny Committee is not denuded of its power to correct its own mistake and revisit its order. A person guilty of fraud cannot claim any right derived to him on the basis of an order obtained by fraud. Even otherwise, the respondent No. 6 has approached this court seeking directions against the respondent – Scrutiny Committee to decide his complaint about issuance of validity certificate to the petitioner on the basis of false and forged documents. In the said writ petition the Scrutiny Committee made a statement that it will decide the complaint within four months as such it was not necessary for this court to pass separate order and disposed of the writ petition filed by respondent No. 6. It is in these circumstances, the Scrutiny Committee has revisited its order granting validity to the petitioner.*

14. It is brought to our notice that Special Leave Petition filed against the said order was dismissed by the Supreme Court in ***Shakila Begum Faiyyazuddin Vs. State of Maharashtra ; 2018 SCC OnLine SC 2989***, thereby confirming the said order of the High Court.

15. In the case of **Jyoti Sheshrao Mupde Vs. State of Maharashtra and Ors.** (supra) a Division Bench of this Court in this context observed as follows :

7. *In this matter, it is alleged that the validation certificates have been obtained by the near relations of petitioners by misrepresenting the Committee or by withholding material facts from the Committee. It is alleged in the application, by the Scrutiny Committee, that the certificates have been obtained by practising fraud upon the Committee. Since the allegation of fraud has been made by the Scrutiny Committee, in the application, it would be open for the Committee to issue notices setting out grounds for taking up such of those matters for reconsideration. The Scrutiny Committee shall issue proper notices setting out the grounds and reasons which necessitates reconsideration of validation claims and after receiving replies from the concerned validity holders, the Committee may reconsider the claims within*

*para meters of law laid down by this Court in various judgments.*

16. It is relevant to note that Special Leave Petition (C) No.9594/2013 challenging the said order of the High Court was dismissed by an order dated 25.10.2013, thereby, confirming the said order.

17. In the case **Sangita Sharad Kolse Vs. State of Maharashtra and others** (supra), again while considering the aforesaid question was to the power available to the Scrutiny Committee to recall its own order, it was held as follows :

*27. Since the candidate had obtained an order validating her caste by suppressing the material information of her conversion to Christianity and the said order validating her caste claim had been obtained by practising fraud on the respondent Scrutiny Committee, according to us the respondent Scrutiny Committee was clothed with the inherent jurisdiction of exercise of powers of review. The order of the respondent Scrutiny Committee subsequently invalidating the caste claim of the petitioner on grounds of fraud cannot be said to be an order without jurisdiction.*

18. In the case of **Vishnu Rajaram Thakar Vs. State of Maharashtra and another** (supra), another Division Bench of this Court held as follows :

*9. There is, however, one aspect which needs to be clarified. It is about the availability of statutory power of review with the Scrutiny Committee. It has been held in several judgments that the Scrutiny Committee has no power of review, there being no provision expressly conferring it on the Scrutiny committee. In the case of Devendra Gurunath Khedgikar Vs. The Scheduled Tribe Certificate*

*Scrutiny Committee, Pune and Anr. 2009 (3) Mh.L.J. 433 = 2009(2) ALL MR 869, the Division Bench has laid down that a quasi Judicial authority cannot review its own order unless the power of review is expressly conferred by the Statute on it and that the power of review not being an inherent power, the Scrutiny Committee would have no power to review its own order. At the same time, it is also held that the principle of "finality of litigation" cannot be pressed to the extent of such an absurdity that it becomes an engine of fraud in the hands of dishonest litigants. Therefore, it is also held that if there is any playing of fraud or suppression of material facts or misrepresentation of facts, the Scrutiny Committee can reconsider the order of validity passed by it earlier and upon consideration of merits of the matter, it confined to aspects of fraud, suppression or misrepresentation of facts, it can recall its order. Similar is the view taken in the case of Jyoti Sheshrao Mupde (supra), relied upon by the learned AGP. It holds that whenever there is an order obtained by playing fraud or by suppressing material facts or misrepresenting the facts, the Scrutiny Committee shall have the power to reconsider its order. This is also the view taken by the Division Bench of this Court at Aurangabad in the case of Rajeshwar Baburao Bone Vs. State of Maharashtra and Anr. in Writ Petition No. 5160 of 2012 decided on 17<sup>th</sup> December, 2012 [2012 MhLJ Online 132] fairly referred to us by the learned counsel for the Petitioner.*

19. In the case of **Farha Ashfaqali Shaha Vs. Member Secretary and Research Officer, Caste Certificate Scrutiny Committee** (supra), it was held as follows :

*11. It is no good saying that the Scrutiny Committee cannot review its order. This is not a case of review but a request to recall an order which is a product of fraud or misrepresentation of facts. Surely such a power is inherent in the power to decide or adjudicate a dispute and pass an order. If the initial order is a product of fraud, then, equally there is a power to recall such order.*



*Therefore, the Scrutiny Committee shall not allow the parties to raise any technical issues on its competence and jurisdiction to verify the complaint and pass an order.*

20. It is relevant to note that the Division Bench in the case of **Rakesh Bhimashankar Umbarje Vs. State of Maharashtra** (supra) did consider the judgment of the Division Bench of this Court in the case of **Rajeshwar Baburao Bone Vs. State of Maharashtra** (supra) and the judgment of the Supreme Court arising out of the said order of this Court. It is relevant to note that the Supreme Court in the case of **Rajeshwar Baburao Bone Vs. State of Maharashtra** (supra) referred to the finding of this Court and thereupon observed as follows :

*“7. The appellant challenged the aforesaid order dated 24.2.2012 passed by the Scrutiny Committee by filing a writ petition being writ petition No.5160 of 2012 in the High Court of Bombay at Aurangabad Bench. The High Court after hearing the appellant dismissed the writ petition and observed as under:-*

*“In our opinion, petitioner has willfully misled the Scrutiny Committee for securing the validity certificate wrongfully. The petitioner is guilty of making false statements on oath before the Scrutiny Committee. As a result of misrepresentation made by the petitioner earlier, the Scrutiny Committee had issued validity certificate in his favour. However, after realizing the fraudulent act of the petitioner, the Committee proceeded to recall its earlier order. Since the petitioner has played fraud by filing false affidavits on record before the Committee, the Committee was justified in recalling its earlier order of granting validity certificate in favour of the petitioner. It is well established that in the event of occurrence of fraud, the Scrutiny Committee can recall its earlier order even in the absence of specific provision enabling the Committee to exercise powers of review.”*

8. *Hence the present Appeal by Special Leave.*
9. *We have heard Mrs. Meenakshi Arora learned senior counsel appearing for the appellant and Mr. Arun R. Pedneker, learned counsel appearing for the respondent-State.*
10. *Mrs. Meenakshi Arora, put heavy reliance on the decision of this Court in Dattu vs. State of Maharashtra; (2012) 1 SCC 549 and Shalini vs. New English High School Association & Ors. (2013) 16 SCC 526. We have carefully examined the ratio decided by this Court in the decisions referred to hereinabove.*
11. *In the instant case, the appellant claimed to be a member of scheduled tribe on the basis of false statements and false affidavits submitted by him. At the same time indisputably in the year 1991, the appellant got employment on the basis of his claim to be a member of the scheduled tribe. After 18 years of his employment, the matter was referred to a Scrutiny Committee for verification. On consideration of all the documents, the enquiry conducted by the vigilance cell, validity certificate was issued by the Scrutiny Committee on 19.06.2010. However the matter was reconsidered by the Scrutiny Committee for the reason that the tribe certificate issued in favour of his brother was invalidated by the Committee in 2004 and the order attained finality up to this Court. The Scrutiny Committee after giving an opportunity recalled its earlier order dated 19.6.2010, whereby validity certificate was issued in favour of the appellant.”*

21. The learned counsel for the petitioners indicated that the facts of the case in **Rajeshwar Baburao Bone Vs. State of Maharashtra** (supra) were distinguishable, because the tribe claim of the brother of the appellant therein had been invalidated by the Committee in an earlier order which was suppressed. Such are not the facts in the present case and hence a distinction is sought to be made.

22. But, we are of the opinion that the above quoted portions of the orders of various Division Benches of this Court do indicate an

apparent cleavage in views. We find that the concern expressed by the division benches of this Court in the cases of ***Rakesh Bhimashankar Umbarje Vs. State of Maharashtra*** (*supra*) and particularly ***Bharat Nagu Garud Vs. State of Maharashtra and others*** (*supra*), is well founded to the effect that if a blanket power of recall is bestowed upon the Scrutiny Committee despite the fact that the Act of 2000 does not provide a power of review, there is a possibility of indiscriminate or rampant use of such power, which would destabilize and upset the claims of the individuals belonging to the same family. But, that in itself cannot be the basis to hold that in no circumstances can the Scrutiny Committee exercise its inherent power of recalling its earlier order, which has been obtained on the basis of fraud, misrepresentation or suppression of material facts. It cannot be countenanced that orders upholding tribe claims and grant of validity certificates obtained on falsehoods, fabrications, fraud, misrepresentation or suppression of material facts, when noticed subsequently, cannot become the basis of reopening such cases. It is also relevant to note that the Scrutiny Committee is better equipped to examine the aspects of fraud, fabrication and misrepresentation as it has some powers akin to those of a civil court, as compared to this Court exercising writ jurisdiction under Article 226 of the Constitution of India. The purity of the process, once found to be polluted has to be dealt with and therefore, we find that important questions arise for consideration that need to be authoritatively settled by a larger bench of this Court.

Hence, we take recourse to Rule 9(A) of the Bombay High Court Appellate Side Rules, 1960, to formulate questions to be answered by a larger bench in the light of apparent conflict in the aforementioned views of various division benches of this Court. The questions are as follows:

- i. Whether the Scrutiny Committee constituted under the Act of 2000, has the power to recall its order on the ground that it is vitiated by fraud, misrepresentation or suppression of material facts ?
- ii. Being a creature of the statute i.e. the Act of 2000, the Scrutiny Committee does not have power of substantive review due to absence of any such provision under the said statute, but does it denude the Scrutiny Committee of its inherent power to recall its own order on the ground of fraud, misrepresentation or suppression of material facts ?
- iii. If the Scrutiny Committee does have such limited power of recalling its order on the aforesaid grounds, what are the contours of the same and what safeguards must be applied so that a situation of rampant recalling of orders is avoided ?
- iv. Whether such a safeguard can include necessity of seeking leave of the High Court, in the light of the stipulation in Section 7(2) of the Act of 2000 ?

v. Whether the judgments of Division Benches of this Court in the cases of **Rakesh Bhimashankar Umbarje Vs. State of Maharashtra** (supra) and **Bharat Nagu Garud Vs. State of Maharashtra** (supra), need to be revisited to the limited extent indicated above ?

23. The papers pertaining to these cases be placed before the Hon'ble Chief Justice for decision by a larger bench on the questions formulated herein above.

24. Ordered accordingly.

(Y. G. KHOBRAGADE, J.)

(MANISH PITALE, J.)