

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

WRIT PETITION NO. 2928 OF 2003

Suresh s/o. Madhavrao Potalwad .. Petitioner
Aged 19 years, student,
R/o. C/o. Ashok Krishi Seva Kendra,
New Mondha, Mukhed, Dist. Nanded
(Presently studying in Premchand
Mugadiya Adhyapak Vidyalaya,
Satpal Nagar, Aurangabad.)

Versus

1. The State of Maharashtra .. Respondents
2. The Committee for Scrutiny &
Verification of Tribe Claims
Aurnagabad
(Through its Member Secretary)
3. The Executive Magistrate,
Mukhed, Dist. Nanded.
4. The Principal,
Premchand Mugadiya Adhyapak
Vidyalaya, Satpal Nagar,
Aurangabad.

Mr. U.R. Awate h/f. Mr. S.B. Talekar, Advocate for the
petitioner.

Mrs.M.S. Patni, AGP for respondent/State.

Mr. A.B. Tele, Advocate for respondent No.2.

**CORAM : A.V. NIRGUDE &
A.M. BADAR,JJ.**

DATED : 07.07.2015

ORAL JUDGMENT [PER : A.V. NIRGUDE,J.] :-

1. This petition challenges judgment and order dated 30.09.2002 passed by the Committee for Scrutiny and Verification of Tribe Claim, Aurangabad, holding that the petitioner has failed to prove his claim that he belongs to scheduled tribe, by name, Mannervarlu. All necessary formalities were followed. The Vigilance Cell report was also called. The statement of relatives including father of the petitioner were recorded. While dismissing the claim the committee recorded mainly two reasons. First : the petitioner did not produce necessary documents indicating his tribe as Mannervarlu and the second : he failed to prove affinity test.

2. We perused the documents and found that there is one document of 1964 in which the caste/tribe of the petitioner's father in 1964 was recorded as "Mannervarlu". This, in-deed, is old document and because of its old age, it assumed probative value. No other

document earlier than 1964 could be produced. The petitioner's tribe as Mannervarlu has been recorded in his school record, which is of recent origin.

3. It is quite common to find that after the Presidential Order of 1950 and amendments to it were published, those whose caste or tribe names resembled to names mentioned in the Presidential Orders, they started taking stand that they belonged to that particular caste/tribe. They also started recording their caste or tribe in school and other records. Having regard to this tendency, the law is now settled that the documents which are older than 1950 would assume greater importance. Comparatively, therefore, the documents of 1964 though old, would not be conclusive document in this case.

4. The second point is about affinity test. The number of questions were put to the petitioner and his family members and information was given by them. On the

basis of this information, the committee opined that the petitioner failed to prove affinity test. They even mentioned in the order that the petitioner and his family members did not even have basic knowledge of traits, characteristics, customs and culture etc. of Mannervarlu - Scheduled Tribe.

5. Learned Counsel for the petitioner asserted that the committee ought to have given reasons as to why they formed above mentioned reason. In order to support his contention that the Committee was duty bound to give reasons even when holding that the affinity test had failed, he placed reliance on two judgments of our High Court, namely, Ashwini Anil Chavan Vs. State of Maharashtra & Ors., 2006(4) All MR 106 and Smt. Sangita Sahebrao Bhalerao Vs. State of Maharashtra & Ors., 2014 (7) All MR 640. In the first mentioned judgment, the Committee had come to the conclusion that the candidate failed to prove affinity test. It was found that the

Committee placed reliance on the report of certain Research Officer. The Court held that the Scrutiny Committee ought to have applied its mind and record reason as to why they accepted the report. In the second mentioned judgment, once again there was report of Research Officer, which was accepted by the Committee.

6. The facts of the case in hand are different than the cited judgments. No Research Officer Report was given in the petitioner's case. The Committee applied its own mind to the data that was made available to them including the answers given to the questions put to the petitioner and his family members. From this data, they came to the conclusion that the petitioner's family members did not have basic knowledge etc. of the tribe. It was not necessary for the committee to mention in their judgment as to what are the real traits, characteristics, customs etc. of Manervarlu - Scheduled Tribe. If the data given by the petitioner did not

answer characteristics of the tribe, they would simply observe that the candidate had failed affinity test. The answers given by the petitioner and his family members might even indicate that the petitioner did not belong to the tribe he claimed, but in-fact, could be belonging to a different cast/tribe. Such conclusion is also not expressed by the Committee because such conclusion is not relevant for the purpose of deciding the claim.

7. We must give sufficient importance to the Scrutiny Committee's expertise. The Committee is comprised of knowledgeable persons who have studied and researched the subjects like Sociology, Anthropology etc. They have records regarding census carried in our country since last more than 100 years. Needless to say that they are aware of peculiar traits, characteristics, customs and culture of the tribe "Mannervarlu". When they knew about it and when they found that the information given by the petitioner and his family

members did not match their information, they could make their decision saying that the affinity test had failed. In this regard if the petitioner wants us to reject the opinion of the Committee, which is comprised of experts, they must bring before us equally authoritative opinion of other expert on the subject of affinity. It is only then we may record finding on this subject different than the Committee's finding. Judicial scrutiny of the Committee's judgment is of limited scope. We have to only find out whether the procedure was properly followed and that all the material was taken into account. We do not find any error in the impugned judgment and order.

8. The writ petition, therefore, fails. The writ petition is dismissed. Rule discharged. No costs.

[A.M. BADAR,J.]

[A.V. NIRGUDE,J.]