

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

WRIT PETITION NO. 1271 OF 2017

Madhav Ramrao Marakwad .. Petitioner

Versus

The State of Maharashtra and another .. Respondents

Shri Pratap V. Jadhavar, Advocate for the Petitioner.
Shri R. B. Bagul, A.G.P. for Respondent Nos. 1 and 2.

**CORAM : S. V. GANGAPURWALA AND
K. L. WADANE, JJ.**

DATE : 27TH JANUARY, 2017.

PER COURT :

. Heard. Issue notice to respondents. The learned A. G. P. waives notice for all respondents.

2. The application for issuance of tribe certificate of the petitioner as belonging to 'Mannervarlu' (Scheduled Tribe) is rejected. Aggrieved thereby the petitioner has filed the present writ petition.

3. Mr. Jadhavar, the learned counsel for the petitioner submits that, all the documents filed before the Sub Divisional Officer, Degloor show the tribe of the petitioner recorded as Mannervarlu (S.T.). The school record of the petitioner,

petitioner's brother, so also validity issued in favour of petitioner's real brother was filed on record. However, only on the ground that documents prior to 1950 are not filed, the application of the petitioner is rejected.

4. The learned Assistant Government Pleader for respondents states that, the Sub Divisional Officer has rightly considered all the aspects and has passed the order.

5. In normal course, we would certainly not have entertained present writ petition and would have relegated the petitioner to the remedy of appeal. However, it is pointed out that the petitioner is intending to contest the election and for the said purpose the nomination is to be filed from 27.01.2017 and the last date for filing nomination is 01.02.2017. We have also considered the fact that, as contended by the petitioner, real brother of the petitioner has been issued with validity certificate as belonging to Mannervarlu (S.T.) and the documents produced on record by him that is school record also depict the said tribe.

6. It is trite that, at the time of issuance of caste/tribe certificate, the officer has to be *prima facie* satisfied. As even otherwise, the said certificate issued by the S. D. O. will have to undergo acid test in validation proceedings before the Scrutiny Committee. Considering the fact that, the real brother of the

petitioner has been issued with validity certificate as belonging to Mannervarlu (S.T.), so also all other documents filed on record *prima facie* depict caste recorded as Mannervarlu (S.T.), so also considering the last date for ensuing elections, we are inclined to exercise our jurisdiction by way of an exception.

7. In the result, the impugned order is quashed and set aside. The Sub Divisional Officer, Degloor, Dist. Nanded i. e. respondent No. 2. shall issue tribe certificate to the petitioner of 'Mannervarlue' (Scheduled Tribe) on or before 31.01.2017. The said tribe certificate, certainly and naturally will have to undergo the scrutiny before the Scrutiny Committee in the validation proceedings. The writ petition accordingly is disposed of. No costs.

8. The parties to act on authenticate copy.

[K. L. WADANE, J.]

[S. V. GANGAPURWALA, J.]