

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

WRIT PETITION NO.3223 OF 2002

- 1] Sanjay Haribhau Munnur
Age 33 years, Occ-service,
R/o At & PO – Mantha
Dist.Jalna

... PETITIONER

VERSUS

- 1] The State of Maharashtra
[Copy to be served on the
Govt.Pleader,High Court
Building at Aurangabad]
- 2] The Scheduled Tribe Caste Certificate
Verification Committee, M.S.
Aurangabad Division, Aurangabad
Through its Chairman / Director
- 3] The Taluka Executive Magistrate
Jalna, Dist.Jalna
- 4] The Superintending Engineer
Environmental Engineering Circle
Aurangabad.
- 5] The Collector
Collectorate, Jalna.
- 6] The Executive Engineer
Environmental Engineering, PWD
Jalna.

... RESPONDENTS

.....

Mr. M.A.Golegaonkar h/f A.S.Golegaonkar, Advocate for Petitioner.
Mrs. R.P.Gaur, AGP for Respondent Nos.1 to 5.
None for Respondent No.6.

...

**CORAM : S.V.GANGAPURWALA &
MANGESH S. PATIL,JJ.**

DATED : 13 SEPTEMBER ,2017

ORAL JUDGMENT [PER MANGESH S. PATIL,J.] :-

The petitioner has challenged the order of the Committee for Scrutiny and Verification of Tribe Claims, Aurangabad dated 6/6/2002, whereby his claim as belonging to Mannervarlu [Scheduled Tribe] Sr.No.27 has been invalidated.

2] We have heard learned advocate for the petitioner. He submits that the Committee has ignored the documents submitted by him primarily on the ground that caste certificates of the near relatives as well as the school records read the caste as 'Munnervarlu', which is not a tribe finding place in the Schedule. Such hypertechnical view of the Scrutiny Committee is arbitrary and capricious. The father of the petitioner has not been heard for decades and no pre-1950 record is available, which could have been produced before the Committee. Lastly, the learned advocate submits that instead of disputing the documents submitted by the petitioner, the Committee ought to have adopted a pragmatic view in the peculiar facts and circumstances of the case.

3] The learned AGP supports the order.

4] Admittedly, the petitioner has not been able to produce any documents of a period prior to the year 1950. However, it must be borne in mind that although such old record would carry a more

persuasive value, that does not mean that absence of such old documents ipso-facto would be fatal. A person may have only the record which is available after 1950 and hypothetically there could be a person who is not able to produce the old record. But merely for this reason, one cannot refuse to consider his claim by taking a cynical approach. Being circumspect, is one thing and being cynical is another. Precisely this seems to have happened in the matter in hand while passing the impugned order by Scrutiny Committee.

5] Various documents produced by petitioner as regards himself and his blood relations have been ignored, basically on the ground that these documents mentioned the caste of the persons holding it as 'Munnervarlu' instead of 'Mannervarlu'. Bearing in mind the fact that there is no tribe finding place by name 'Munnervarlu', in all probabilities, all these documents must be pertaining to the tribe 'Mannervarlu'. Had there been two tribes with similar spellings, such hairsplitting reasonings could have been accepted. However, in the absence of any caste/tribe by name 'Munnervarlu', the Committee ought to have safely proceeded, by assuming that what was in fact meant by issuing authorities, was tribe 'Mannervarlu' only. The Committee has grossly erred in ignoring these documents.

6] True it is that in the service book of the petitioner's mother, her caste is shown as Reddy. However, it is trite that the caste of the mother is not relevant, since a person inherits the caste from father. But the Committee has taken a contrary view in holding this circumstance as a circumstance contrary to the claim of the petitioner.

7] The vigilance cell report also shows that the same error is committed by the enquiry officer as is done by the scrutiny committee

in laying emphasize on the use of the nomenclature as 'Munnervarlu' instead of 'Mannervarlu'.

8] Inability of the petitioner to produce old documents cannot be said to be an attempt to hide unfavourable circumstance. Atleast there is no material to say so. Therefore, when the petitioner's school record as also the school record of his brother read that the petitioner belongs to 'Mannervarlu', and when there is no contrary material to refute the claim, the Scrutiny Committee has clearly erred in invalidating the claim. We are satisfied that the impugned order of the Committee suffers from serious error and is liable to be quashed and set aside.

9] In the circumstances, the Petition is allowed. Rule is made absolute in terms of prayer clause "B". The Scrutiny Committee shall issue validity certificate within four weeks from the date of receipt of this order.

(MANGESH S.PATIL,J.) **(S.V.GANGAPURWALA,J.)**
umg/