

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

WRIT PETITION NO. 2158 OF 2017

Suraj S/o Gokul Palepwad,
Age : Minor, Occ; Student,
Under Guardian of Father
Gokul Devba Palepwad,
Age : 43 Years, Occu. : Agril.,
R/o Islapur, Tq. Kinwat,
Dist. Nanded. .. Petitioner

Versus

1. The State of Maharashtra,
Through it's Secretary,
Tribal Development Department,
Mantralaya, Mumbai - 32.
2. The Scheduled Certificate Scrutiny
Committee, Aurangabad Division,
Aurangabad, through its
Deputy Director. (R), Aurangabad.
3. The Sub Divisional Officer,
Kinwat, Tq. Kinwat & Dist. Nanded. .. Respondents

Shri Pratap V. Jadhavar, Advocate for the Petitioner.
Shri M. B. Bharaswadkar, A.G.P. for Respondent Nos. 1 to 3.

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

DATE : 15TH FEBRUARY, 2017.

ORAL JUDGMENT (*Per S. V. Gangapurwala, J.*) :-

. Rule. Rule made returnable forthwith. With the consent of parties taken up for final hearing.

2. Mr. Jadhavar, the learned counsel for the petitioner submits that, the petitioner had applied for the tribe certificate of 'Mannervarlu' (Scheduled Tribe). The Sub Divisional Officer rejected the application. The petitioner filed an appeal before the Scrutiny Committee. The Committee has dismissed the appeal. Aggrieved thereby present petition.

3. Mr. Jadhavar, the learned counsel for the petitioner further submits that, the school record of the father of the petitioner shows the tribe being recorded as Mannervarlu. Two real brothers of the petitioner have been issued with tribe certificate of Mannervarlu in the year 2013 and 2015. The learned counsel submits that, the school record of the petitioner also shows the caste being recorded as Mannervarlu. According to the learned counsel at this stage of issuance of tribe certificate a long drawn enquiry is not contemplated. The documents referred in the order of the Committee are not in respect of relatives of the petitioner.

4. The learned Assistant Government Pleader for respondents submits that, there are no documents produced on record prior to

1950. The documents prior to 1950 have got more probative value. The documents are of recent origin. The Committee has also considered all these aspects threadbare. The petitioner could not withstand the affinity test.

5. We have heard the submissions canvassed by the learned counsel for respective parties. We have also gone through the orders passed by the Sub Divisional Officer and the Committee. It appears from the record that, two real brothers of the petitioner have been issued with tribe certificates of Mannervarlu (S.T.). The school record as produced by the petitioner shows the caste being recorded as Mannervarlu in respect of his father's school record.

6. There is nothing on record to show that, said documents i. e. the school record of the petitioner and his father was referred to vigilance. Of course, even if tribe certificate is issued, same will have to undergo acid test before the Committee in validation proceedings.

7. *Prima facie* two real brothers of the petitioner have been issued with tribe certificates. The school record of the petitioner show the caste as Mannervarlu. No contra evidence is appearing on record as it appears from the judgment. In the light of the above, we set aside the judgment of the Committee and the Sub

Divisional Officer.

8. The Sub Divisional Officer shall issue tribe certificate to the petitioner of Mannervarlu (Scheduled Tribe), which certificate would have to undergo scrutiny/verification in the validation proceedings. The Sub Divisional officer, Kinwat shall issue the tribe certificate expeditiously and preferably within a period of four (04) weeks from today.

Rule accordingly is made absolute in above terms. No costs.

Sd/-

[K. L. WADANE, J.]

Sd/-

[S. V. GANGAPURWALA, J.]

bsb/Feb. 17