

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3936 OF 2017

Pratiksha d/o Balaji Bastewad

Petitioner

V E R S U S

The State of Maharashtra, through
it's Secretary, Medical Education
and Drugs Department, Mantralaya,
Mumbai & five others

Respondents

*Mr. P.V. Jadhavar, Advocate for the petitioner
Mr. P.S. Patil, A.G.P. for the respondents/state
Mr. S.B. Bhosale, Advocate for respondent No.6*

**CORAM : S.V.GANGAPURWALA AND
SANGITRAO S. PATIL,
JJ.**

DATE : 22nd MARCH, 2017

PER COURT :

1. Mr. Jadhavar, learned counsel for the petitioner submits that the Tribe Certificate of the petitioner as '**Mannervarlu**', Scheduled Tribe, was

referred to the Committee for validation. However, on the ground that the Tribe Certificate is issued by an authority without jurisdiction, the same is confiscated and liberty is given to the petitioner to obtain the Caste Certificate from the proper authority.

2. It is further submitted by the learned counsel for the petitioner that on 19th July, 1990, the Tribe Certificate is issued to the father of the petitioner by the Sub-Divisional Officer, Bhokar. The learned counsel for the petitioner relied upon Rule 5 (2) of the Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000. Rule 5 (2) of the said Act states that;

“Migration from one district to another district or from the jurisdiction of one Competent Authority to another within the State, -

- (a) The competent Authority if satisfied may issued Scheduled Tribe Certificate in Form C to an applicant who has migrated from one district to another district or from the jurisdiction of one Competent Authority to another, within the State, on production of the Scheduled Tribe Certificate issued to his father or grandfather, by the concerned Competent Authority of that district.
- (b) The Competent Authority shall issue Scheduled Tribe Certificate in Form C to an applicant of other district from which he had migrated to the present place, on the production of the Scheduled Tribe Certificate issued to his father or grandfather by the then Competent Authority of the district of his father or grandfather's origin at the time of passing of the first Presidential Order dated the 6th September 1950 or thereafter, for Scheduled Tribes."

3. In the present case, the Tribe Certificate of '**Mannervarlu**' S.T. is already issued to the father of petitioner on 19th July, 1990. In the light of above,

the Sub-Divisional Officer of the migrated place was competent authority to issue Tribe Claim in said respect.

4. In view of above, we proceed to pass the following order :-

O R D E R

- a] The impugned order passed by the Scheduled Tribe Certificate Scrutiny Committee, Aurangabad dated 28th February, 2017 is hereby quashed and set aside.
- b] The petitioner shall remain present before the Scheduled Tribe Certificate Scrutiny Committee, Aurangabad on 12th April, 2017.
- c] The Scheduled Tribe Certificate Scrutiny Committee, Aurangabad shall decide the Tribe claim of the petitioner of "Mannervarlu" (S.T.) on it's own merits on considering the

documents on record and following the due procedure of Law expeditiously and preferably within nine months from today.

d] The respondent Nos.5 and 6 shall not withheld the Examination result of the petitioner only the ground that her validation proceeding is pending.

e} Writ Petition accordingly disposed of. No costs.

(SANGITRAO S. PATIL, J.)

(S.V. GANGAPURWALA, J.)