

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

BENCH AT AURANGABAD.

WRIT PETITION NO.4374 OF 2017.

Lalita Vishwambhar Birkale ... Petitioner.

Versus

The State of Maharashtra
through its Secretary
General Administration
Department, Mantralaya,
Mumbai and others. ... Respondents.

...
Mr.S.S.Phatale, advocate for the Petitioner.
Mr.P.S.Patil, Additional Government Pleader for
the State.

...

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

Date : 11.09.2017.

PER COURT :

1. The tribe claim of the petitioner as belonging to Mannervarlu (Scheduled Tribe) was referred to the Committee. The Committee cancelled and confiscated the said certificate with liberty to the petitioner to obtain the

same from the appropriate authority, on the ground that the applicant is permanent resident of Shivangaon, Tq.Umri, Dist.Nanded.

2. Mr. Phatale, the learned counsel for the petitioner states that, the father of the petitioner has been issued with the tribe certificate of Mannervarlu (S.T.) by the Tahsildar Bhokar on 5.2.1975. The petitioner had applied for tribe certificate to the authority at Aurangabad and the same is issued to the petitioner on 20th September, 2006. The learned counsel submits that, the order of the Scrutiny Committee is bad in law, in view of Rule 5(2)(b) of the Maharashtra Scheduled Tribe (Regulation of Issuance and Verification of) Certificate Rules 2003 (for short "Rules of 2003").

3. The learned Additional Government Pleader submits that, as the petitioner is permanent resident of Shivangaon, Tq. Umri, Dist.Nanded, he ought to have obtained the certificate from the authority at Bhokar.

4. We have considered the submissions canvassed by the learned counsel for respective parties.

5. Rule 5(2)(b) of the Rules of 2003 reads as under :

**The Maharashtra Scheduled Tribe
(Regulation of Issuance and Verification
of) Certificate Rules 2003**

1.

**5. Grant of Scheduled Tribe
Certificate to migrated persons.**

(1)

(2) *Migration from one district to another district or from the jurisdiction of one Competent Authority to another within the State*

(a)

(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 original at the time of passing of the first Presidential Order dated the 6th September 1950 or thereafter, for Scheduled Tribes.

6. In the present case, the father of the petitioner has been issued with the tribe certificate as belonging to Mannervarlu (S.T.) by the competent authority of Bhokar.

7. In view of Rule 5(2)(b) of Rules of 2003, the petitioner could have applied for tribe certificate to the competent authority of another district also. The tribe

certificate has been issued to the petitioner by the Deputy Collector, Aurangabad. The same would be legal and valid as per Rule 5(2)(b) of the Rules of 2003. The committee ought to have decided the matter on merits.

8. In light of the above, the impugned order is quashed and set aside. The Committee shall decide the tribe claim of the petitioner on its own merits in accordance with law. The Executive Magistrate/Sub-Divisional Officer, Aurangabad, who had issued the certificate shall issue the corrected certificate of Mannervarlu instead of Mannerwarlu issued earlier. The said corrected certificate shall be issued within 15 days. The petitioner shall submit corrected certificate with the Committee which the Committee will decide on its own merits in view of the discussion made supra. The petitioner shall appear along with corrected certificate before the Committee on 12.10.2017. The petitioner shall cooperate in expeditious disposal of the said proceedings.

9. Till the validation proceedings are decided, the employer shall not take any adverse action against the petitioner only on the ground that validation proceedings are pending. However, the employer can take further course of action depending upon the judgment that would be delivered by the Committee in the validation

proceedings.

10. The Writ Petition is disposed of. No costs.

(MANGESH S. PATIL, J.)

(S.V.GANGAPURWALA, J.)

asp/office/wp4374.17

