

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

WRIT PETITION NO. 8200 OF 2017

MANGESH NAMDEV PENTEWAD
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Petitioner : Shri Piratwad Anil P.
AGP for Respondents/ State : Shri P.S.Patil.

...

**CORAM: S.C. DHARMADHIKARI
AND
MANGESH S. PATIL, JJ.**

DATE :- 27th June, 2017

PC.:

1 The caste certificate dated 03.09.2010 has not only been confiscated, but the Scrutiny Committee refused to scrutinize and verify the claim covered by this certificate.

2 Relevant portion of the caste certificate, copy of which is at Exhibit B, reads as under :-

"This is to certify that Shri/Smt./Ku.Pentewad Mangesh Namdew of Ekrala Tq.Hadgaon in the District Nanded in the State of Maharashtra belongs to Munnervarlu-27 which is recognised as 'SCHEDULED TRIBE' under:"

3 This certificate certifies the Petitioner as belonging to Scheduled Tribe described more particularly at Entry-27. The list of Scheduled Castes, Scheduled Tribes, Other Backward Classes, Special

Backward Category, De-notified Tribes and Nomadic Tribes in Maharashtra traceable to the Constitution (Scheduled Castes) Order, 1950 is published and in the Government gazette. Part-X deals with Maharashtra. Apart from describing the Scheduled Castes in column (b), there is a separate Constitution (Scheduled Tribes) Order, 1950. Below that is part-IX which deals with Maharashtra. Entry 27 of the same reads as under:-

"27. *Kolam, Mannervarlu.*"

4 The Sub Divisional Magistrate, Sub Divisional Office, Bhokar, District Nanded has issued the caste certificate stating and certifying that the Petitioner belongs to Scheduled Tribe at Entry-27. The certificate, however, contains a spelling "Munnervarlu" instead of "MANNERVARLU".

5 The tribe is "MANNERVARLU" according to the learned AGP. However, he could not dispute that the certificate which is produced before the Scrutiny Committee refers to Entry-27 and there is no "Munnervarlu" or entry commencing with spelling "Munner".

6 Hence, we are of the view that for some mistakes or errors in the certificate for which the Petitioner is not responsible, the Scrutiny Committee could not have taken such hyper-technical view. We find that the Scrutiny Committee has taken a shortcut to close the proceedings abruptly. The Scrutiny Committee has not shown any power or source for such view which it has taken when Entry-27 was very much before it, so also, the Presidential Order. It may have given a big sermon in its order by

saying that nobody can tinker or rewrite the presidential order or the entries therein. In this case, this principle has no application. Though there is specific Entry-27 as "Mannervarlu", but there is a spelling error in the caste certificate issued to the Petitioner by the Sub Divisional Magistrate. In this spelling error committed by the Sub Divisional Magistrate, the Petitioner has not played any role. This is neither deliberate nor intentional act attributable to the Petitioner and nobody can read this from the Scrutiny Committee's order.

7 In these circumstances we set aside the impugned order. We direct the competent Scrutiny Committee to scrutinize and verify the claim of the Petitioner as belonging to "MANNERVARLU" Scheduled Tribe (Entry 27) on merits and in accordance with law. The Scrutiny Committee should overlook the mistake and error in the spelling of the tribe/ caste in the certificate issued by the Sub Divisional Office. The Scrutiny Committee shall complete this assignment as expeditiously as possible.

8 The Writ Petition is, accordingly, disposed of.