

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO. 7932 OF 2017**

**MANGESH PRABHU KOLHE MINOR THROUGH FATHER P D
KOLHE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...
**Advocate for Petitioner : Vibhute Sunil M.
AGP for Respondents: Mr.P.S.Patil**
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**CORAM : S.C.DHARMADHIKARI &
MANGESH S. PATIL,JJ.**

DATE : 19/06/2017

PER COURT :-

1. The petitioner claims that he belongs to Mannervarlu Scheduled Tribe.
2. The petitioner obtained a concession or benefit meant for scheduled tribe in the State. The petitioner for his educational prospects, applied for admission to a reserved seat. He was admitted subject to the scrutiny and verification of his tribe claim. On the strength of this tribe certificate which was issued, the petitioner was admitted and duly completed his 12th standard (Higher Secondary Education Course in Science faculty). The petitioner's results were also declared by the Board. He obtained good marks. The petitioner

-2-

is unfortunate because though he desires to prosecute further studies in the faculty of Medicine or Engineering, he is unable to proceed for want of a tribe validity certificate. The tribe validity certificate was sought after the tribe certificate was forwarded for scrutiny and verification. The tribe certificate which was forwarded and a copy of which is at page 8 of the paper book, relevant portion reads thus:-

“This is to certify that Shri KOLHE MANGESH PRABHU Village JAMB (Bk) Taluka MUKHED Dist. NANDED in the State of Maharashtra belong to the MANNERWARLU Tribe Sr. No. ST-27 which is recognized as a Scheduled Tribe Under :-

....”

A bare perusal of the same would indicate that the tribe is spelt as “MANNERWARLU”, but instead of alphabet “V”, which should appear after 'R', alphabet 'W' appears. The other details of the tribe and including as found in the Government Gazette are identical. Such a tribe certificate when forwarded for scrutiny and verification, the petitioner relied upon a certificate of validity issued to Prabhu Dnyanoba Kolhe (his father), Prabhu's tribe certificate was carrying correct spelling and the competent Scrutiny Committee (The Scheduled Tribe Certificate Scrutiny Committee, Aurangabad Division, Aurangabad) issued certificate of validity on 10/10/2011 to

the petitioner's father - Prabhu.

3. The petitioner placed strong reliance on the certificate of validity issued to his father but the Committee proceeded to appreciate as to whether reliance by the petitioner is well placed or otherwise and found fault with the tribe certificate. It says that whenever the tribe certificate contains the spelling 'Mannerwarlu', meaning thereby that alphabet 'w' appears instead of alphabet 'v', there is necessarily a doubt about its authenticity. It cannot be then claimed to be genuine. Even the claim based on such a certificate of validity cannot be styled as bonafide. Such presumptions are raised by Committees though they are not finding any recognition in law.

4. We have not been shown any provision which would enable the Committees while scrutinizing and validating the caste / tribe claim, to go into the issue as to whether the certificate of validity earlier issued and containing the spelling mistake, would mean the said certificate should be discarded and straightaway. It is one thing to say that the Court or Committee has no power or authority leave alone jurisdiction to re-write the constitutional entry and it is another thing to find out whether the tribe is correctly described but wrongly spelt. Even if the spelling is wrong, so long as the description of the caste matches the Constitutional entry and the particulars of

Government Gazette, we do not see any reason as to why the Committees have been going around discarding the certificate themselves or refusing to scrutinize the claims and verify it on that basis. The support that the Committee draws in the instant case from the decisions of this Court and the Supreme Court is the principle enunciated therein that no one can challenge or impugn the Constitutional entry or entries in the Presidential Orders. The Committee has therefore misdirected itself completely and in law. Its order suffers from patent non-application of mind and can safely be termed as perverse. There is no other reason assigned while refusing the certificate of validity to the petitioner though his father possesses it and has derived benefits on the strength of the same nearly for a decade.

5. In the circumstances, the Writ Petition is allowed. The impugned order is quashed and set aside. On the lines of the tribe validity certificate issued to the father, the certificate of validity will now be issued to the petitioner with the corrected spelling “MANNERVARLU”, within a period of two (2) weeks from the date of receipt of copy of this order.

(MANGESH S. PATIL,J.)

(S.C.DHARMADHIKARI,J.)

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