

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11593 OF 2017

Rakesh S/o. Shekanna Totwar

.. **Petitioner**

Versus

The State of Maharashtra and another

.. **Respondents**

Mr. S. M. Vibhute, Advocate for the Petitioner.

Shri S. W. Mundhe, A. G. P. for the Respondents.

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

DATE : **21st September, 2017**

PER COURT :

1. Mr. Vibhute, learned counsel submits that the real paternal uncle has been issued with the validity certificate of 'Mannervarlu' scheduled tribe on 27.6.2011. The affidavit is also filed by the real paternal uncle also clarifying the relationship. The genology is also filed on record. The school record of the petitioner also records the caste as 'Mannervarlu'. The learned counsel submits that, father of the petitioner is illiterate and has not attended the school. The S.D.O. has not referred to this document filed on record. The Roznama shows the document i.e. the validity certificate of the real paternal uncle being filed. Even, the school record of the petitioner is not discussed.

2. The learned A.G.P. states that for want of evidence the S.D.O. has rightly rejected the application of the petitioner.

3. In normal course we would not have entertained the writ petition and would have relegated the petitioner to the alternate remedy. However, considering the fact that the petitioner wants to contest the election and tomorrow is the last date for filling nomination we have entertained the petition.

4. The petitioner has filed an undertaking that he wants to contest the election and that he would not withdraw his nomination.

5. We have considered the submissions on merits of the matter.

6. It appears that the real paternal uncle of the petitioner has been issued with the validity certificate of 'Mannervarlu' scheduled tribe. Even, the school record of the petitioner records the caste as 'Mannervarlu'. No contra evidence is on record.

7. It is trite that at the time of issuance of tribe certificate the Authority has to be prima facie satisfied.

8. Considering the above, we pass the following order:

ORDER

I] The respondent No. 2 shall issue the tribe certificate to the petitioner of 'Mannervarlu' scheduled tribe immediately.

II] The learned A.G.P. shall communicate this order to the respondent No. 2.

9. The writ petition is disposed of. No costs.

[MANGESH S. PATIL, J.]

[S. V. GANGAPURWALA, J.]

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