

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***APPELLATE CIVIL JURISDICTION*****WRIT PETITION NO. 10363 OF 2017****Pratibha d/o Baliram Dasare****Age 18 years, Occ. Student****r/o Telangwadi, Post. Osmannagar,****Tq. Kandhar, Dist. Nanded****..... Petitioner****VERSUS**

- 1. The State of Maharashtra
Through Secretary
Tribal Development Department
Mantralaya, Mumbai.**
- 2. The Scheduled Tribe Certificates
Scrutiny Committee,
Plot No.10, Sector E-1, Near
Saint Lawrence High School,
Opp. CIDCO Bus Stand, Aurangabad.**
- 3. The Competent Authority,
NEET UG 2017, Mumbai.**
- 4. The Dean,
Sinhgad Dental College & Hospital Pune.**
- 5. The Sub Divisional Officer,
Kandhar, Tq. Kandhar, Dist. Nanded.**
- 6. The Director,
Medical Education and Research,
Government Dental College and Hospital
Near V.T., Mumbai.**

..... Respondents

Mr.Anil Golegaonkar, a/w. Mr.M.A.Golegaonkar for the Petitioner.

Mr.A.A.Kumbhakoni, Advocate General, a/w. Mr.Akshay Shinde, Special Counsel, Mr.Sandeep Babar, A.G.P. for the State.

**CORAM : SHANTANU S. KEMKAR &
G.S. KULKARNI, JJ.**

DATE : 28th SEPTEMBER, 2017

ORAL JUDGEMENT: (Per G.S. Kulkarni, J.)

Rule. Returnable forthwith. By consent of the parties, heard finally.

2. By this petition filed under section 226 of the Constitution, the petitioner challenges the order dated 2nd September, 2017 passed by the Scheduled Tribe Certificate Scrutiny Committee, Aurangabad - respondent no.2, by which the petitioner's claim for a validity to be granted to the caste certificate of the petitioner belonging to the "Mannervarlu Scheduled Tribe" as issued to the petitioner by the competent authority, has been rejected and the caste certificate confiscated.

3. We have heard learned counsel for the parties. It is not in dispute that the petitioner's father Baliram Anandrao Dasare, petitioner's uncle Sanjay Anandrao Dasare, petitioner's cousin uncle Hanmant Jaywanta Dasare and the petitioner's cousin brother Subhash Sahebrao Dasare have been granted caste validity certificate as belonging to Mannervarlu, Scheduled Tribe. The details of the same are as under :-

Sr. No	Name of the Document	Name on the document	Relation with the Petitioner	Entry of caste	Date
1.	Validity Certificate	Baliram Anandrao Dasare	Father	Mannervarlu	19/10/2011
2.	Validity Certificate	Sanjay Anandrao Dasare	Uncle	Mannervarlu	11/08/2010
3.	Validity Certificate	Hanmant Jayavanta Dasare	Cousin Uncle	Mannervarlu	09/11/2010
4.	Validity Certificate	Subhash Sahebrao Dasare	Cousin cousin Brother	Mannervarlu	17/12/2009

4. The contention as urged on behalf of the petitioner is that in passing the impugned order these caste validity certificates are brushed aside by the Caste Scrutiny Committee, only for the reason that, there is a school admission extract dated 5th June, 1969 of one Sitaram Keroji Dasare who is stated to be in the relation (Bhavaki) of the petitioner showing the caste as 'Manurwar'. It is stated that there are two other documents as set out at serial nos. 2 and 3 as referred in paragraph (7) of the impugned order pertaining to Uttam Marotrao Dasare and Manohar Maruti Dasare which shows the caste of the said persons as “Manurwar”. The Committee in the light of these documents has concluded that the petitioner's claim for grant of a validity to the caste certificate of the petitioner belonging to the Mannervarlu Scheduled Tribe, cannot be granted.

5. We have perused the impugned order and more particularly the reasons as recorded by the Committee, in deciding issue no.3, which is in regard to the

validity certificate issued in favour of the said relatives of the petitioner, as relied by the petitioner to support her claim. We find that the Scrutiny Committee has not given any acceptable or cogent reason to disregard the grant of the said validity certificates and to conclude that the validity certificates which are issued to these near relatives cannot be accepted. There are no findings recorded by the Scrutiny Committee that the said validity certificates are obtained by the said near relatives of the petitioner, by suppressing any documents or by fraud or that the Committee had no jurisdiction to issue the caste validity certificates. It is merely because some stray material pertaining to one Sitaram, Uttam and Manohar is revealed, in the vigilance report which in any case was disputed by the petitioner, the committee nonetheless thought it appropriate to brush aside the caste validity certificates granted to the father of the petitioner, two uncles and a cousin brother. When the petitioner disputed these documents as revealed in the vigilance enquiry, the Scrutiny Committee was required to decide the issue. However in the absence of any material to show that these documents were relevant to the petitioner's case the Scrutiny Committee proceeded to reject the petitioner's claim.

6. We cannot accept this approach of the Committee and more particularly when plentiful material was available on record and which also was considered to be acceptable in grant of caste validity certificates by the Caste Scrutiny

Committee, to the said near relatives, after following a due procedure. In the absence of any proved contra material and any discussion in regard to any flaw in the vigilance enquiry as undertaken in the case of the petitioner's father, petitioner's cousin brother, the reasoning of the Scrutiny Committee to disbelieve the documents relied by the petitioner cannot be accepted. In these circumstances, we are of the opinion, that consistent with our view, as taken by us in deciding in Writ Petition (St) No.25740 of 2017 decided on 25th September, 2017, we need to allow this petition.

7. Accordingly, we set aside the impugned order dated 2nd September, 2017 passed by the Caste Scrutiny Committee and direct the Caste Scrutiny Committee to forthwith issue caste certificate to the petitioner as belonging to the 'Mannervarlu Scheduled Tribe', on receipt of authenticated copy of this order. No costs.

(G.S. KULKARNI, J.)

(SHANTANU S. KEMKAR, J.)