

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***APPELLATE CIVIL JURISDICTION*****WRIT PETITION NO. 10373 OF 2017**

Nitin Shivaji Siddamwad)
Age 18 years, Occ. Student,)
r/o. Kosamet, Tq.Kinwat, Dist. Nanded) **..... Petitioner**

VERSUS

1. The State of Maharashtra)
Through Secretary,)
Tribal Development Department,)
Mantralaya, Mumbai)

2. The Scheduled Tribe Certificate)
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,)
Government Medical College, Latur)

5. The Sub Divisional Officer,)
Kinwat, Tq.Kinwat, 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.Madhur 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 JUDGMENT (PER G.S.KULKARNI, J)

- Rule. Rule made returnable forthwith. By consent of 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, (for short the Committee), whereby the petitioner's claim for validity of the caste certificate dated 1st September, 2015 of the petitioner belonging to "Mannervarlu Scheduled Tribe" has been rejected, as also the said caste certificate is confiscated.
3. The case of the petitioner before the Committee for grant of a validity to the Scheduled Tribe Caste Certificate of the petitioner, was on the basis of about 15 documents which are referred to in paragraph (3) of the impugned order. According to the petitioner, all these documents would indicate that not only the petitioner but also the near relatives were belonging to the Mannervarlu Scheduled Tribe. To note some of the documents it may be observed that the petitioner referred to the admission extract of the petitioner's father Shivaji Channappa Siddamwad dated 14th July, 1978 showing his caste Mannervarlu. The petitioner

also placed reliance on the caste certificate issued to the petitioner's sister Manisha Shivaji Siddamwad, as also the certificate of validity to the said caste certificate granted by the Caste Scrutiny Committee by an order dated 2nd June, 2010.

4. The Caste Scrutiny Committee had sought a vigilance enquiry and considering the report of the vigilance enquiry, the Caste Scrutiny Committee observed that there were two objectionable documents viz., of one of Gajanan S.Siddamwad, petitioner's brother in whose school leaving certificate dated 23rd June, 2001 though Hindu Mannervarlu was referred, however, there was some interpolation by striking of the word "Nahvi" (barber). The second document which was objected was of the school leaving certificate of the petitioner which recorded the caste as Mannervarlu. However, it is observed that the name of the petitioner's father Shivaji is written after the name of Dasharath was scored of. It is on this premise the Caste Scrutiny Committee has rejected the caste claim of the petitioner.

5. We have heard learned counsel for the parties. We have perused the impugned order and also the documents placed on record. It is not in dispute that the petitioner's sister Manisha Shivaji Siddamwad was granted a validity to her caste certificate as belonging to the Scheduled Tribe Mannervarlu by an order

dated 2nd June, 2010. It is also not in dispute that there is no finding recorded by the vigilance officer with regard to the admission extract of the petitioner's father Shivaji Channappa Siddamwad dated 14th July, 1978 and the petitioner's father not belonging to the Mannervarlu Scheduled Tribe. There are other several documents which are placed on record which have not been disputed. Thus only on the basis of above two documents, the Committee has come to the conclusion that the claim of the petitioner is required to be rejected.

6. Having perused the impugned order as also the reasoning and the findings as recorded, in our opinion that the Scrutiny Committee has mis-directed itself in coming to the conclusion, only on the basis of the two documents namely, the school leaving certificate dated 23rd June, 2001 of Gajanan, the petitioner's brother and the school leaving certificate of the petitioner dated 24th June, 2004 to reject the petitioner's caste claim. The other documents could not have been be discarded on which there was no dispute and which clearly went to show the caste of the petitioner and his near relatives as Mannervarlu. In any event, the validity certificate of the petitioner's sister was granted after undertaking a proper procedure viz. vigilance report and also the affinity test being conducted and after due verification of the documents.

7. We, therefore, do not find any justifiable or cogent reason for the committee to brush aside the undisputed position as revealed in the several documents which were was placed on record on behalf of the petitioner.

8. In view of the above discussion, the petition needs to be succeed. We accordingly set aside the impugned order dated 2nd September, 2017 passed by the Committee. We direct the Caste Scrutiny Committee to grant to the petitioner a caste validity certificate of the petitioner belonging to the “Mannervarlu Scheduled Tribe”, forthwith, on receipt of the authenticated copy of this order. No orders.

9. Needless to say that these observations will not come into the way of the Committee if any show cause notices are issued to the concerned relatives of the petitioner.

(G.S. KULKARNI, J.)

(SHANTANU S. KEMKAR, J.)