

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

952 WRIT PETITION NO. 9493 OF 2018

AJIT ABHIMANYU KOLHE
VERSUS
THE DIRECTOR OF TECHNICAL EDUCATION MAHARASHTRA
STATE AND OTHERS

...

Advocate for Petitioner : Mr. Phatale Sagar S.
AGP for Respondent No. 1: Mr. P.S. Patil
Advocate for respondent No. 2 : Mr. S.G. Karlekar

...

CORAM : S.V.GANGAPURWALA
AND
SUNIL K.KOTWAL, JJ.

DATE : AUGUST 14, 2018

O R D E R :

Mr. Phatale, learned counsel submits that the caste claim of the petitioner as Mannervarlu Scheduled Tribe is invalidated. The learned counsel submits that the father of the petitioner namely Abhimanyu Kolhe has been issued validity certificate of Mannervarlu Scheduled Tribe on 25.5.2009. The real paternal uncle of the petitioner has been issued the validity certificate of Mannervarlu Scheduled Tribe on 22.9.2008.

2. The learned counsel submits that same has been issued after conducting vigilance, relying on all entries of the school record of the petitioner, his father and grand father of the caste Mannervarlu.

3. According to the learned counsel, on the basis of subsequent invalidation of Mr. Anil Kolhe, the Committee invalidated the petitioner's claim. The said Anil Kolhe filed writ petition against the judgment before this court and this court has passed interim order directing respondents not to take coercive action.

4. The learned counsel submits that second cousin brother of the petitioner namely Mangesh Prabhu has been granted validity certificate under the directions of this court in Writ Petition No. 7932 of 2017 under order dated 19.6.2017. The learned counsel further submits that, on the basis of

same entries, the impugned order is passed.

5. The learned AGP submits that show cause notice has been issued to the father and real paternal uncle of the petitioner as to why the proceedings should not be re-opened and the claim should not be invalidated.

6. The learned counsel submits that in the inquiry in the revenue record it has been found that the entries of the caste of grand-father, father and Aunt of the petitioner appear as Mannervar. While invalidating the tribe claim of Anil Kolhe the aforesaid documents were found by the Vigilance.

7. The learned AGP submits that the order is rightly passed.

8. Mr. Phatale, learned counsel submits that documents which are relied upon by the Committee as

referred in para 11 of the judgment were never confronted to the petitioner and only those documents which were not referred to have been produced in the validation proceedings of another person namely Anil Kolhe.

9. We have considered submissions.

10. It is a matter of record that father of the petitioner Abhimanyu, the real paternal uncle of the petitioner have been issued validity certificate of Mannervarlu Scheduled Tribe in the year 2009 and 2008 respectively. It is submitted that at the time of issuing validity to them the vigilance was conducted. All the documents, which the petitioner is relying upon, were the subject matter of consideration. It also appears that the documents which the Committee has relied upon in its judgment were never confronted to the petitioner and for the first time they were referred in the judgment, thereby not giving an

opportunity to the petitioner. In the school record of petitioner, the caste of his father and grandfather appears as Mannervarlu.

11. It is submitted that the show cause notice has been issued to the father and real paternal uncle of the petitioner for reopening their validation proceedings.

12. In the similar set of facts, the Division Bench of this Court at Principal Seat at Bombay, in Writ Petition No. 7514 of 2018, decided on 24.7.2018 and many other Writ Petitions has directed issuance of validity subject to the decision that would be taken in respect of the proceeding re-opened of the validity certificates relied upon by the petitioner. We follow the same course.

13. The respondent shall issue validity certificate to the petitioner as Mannervarlu

Scheduled Tribe. The same shall be subject to the decision of the Committee in the proceedings reopened of the validity holder relied by the petitioner. In case the caste certificates of the validity holder relied by the petitioner are invalidated, then the petitioner shall not be entitled for equity nor shall be entitled to protect his admission.

14. Writ Petition is disposed of. No costs.

[SUNIL K.KOTWAL, J.]

[S.V.GANGAPURWALA, J.]

mahajansb/