

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

1007 WRIT PETITION NO.5857 OF 2019
WITH CA/8360/2019 IN WP/5857/2019

RUTUJA RAMAN MITAKE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Mr. M.A.Golegaonkar & Mr. A.S.Golegaonkar, Advocate for
Petitioner.
Mr. P.S.Patil, AGP for Respondents-State.

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

DATE : 19.07.2019

PER COURT :-

1. The caste claim of the petitioner as 'Mannervarlu' Scheduled Tribe is invalidated.
2. Mr. Golegaonkar, the learned counsel for the petitioner submits that the father of the petitioner is issued with the validity certificate of 'Mannervarlu' Scheduled Tribe. The real uncle of the petitioner namely Uttam is issued with the validity certificate of 'Thakur' Scheduled Tribe. The school record of the father of the petitioner and the uncle of the petitioner records caste as 'Mannervarlu'. The *Pahani Patrak* of the year 1945 in the name of the grandfather of the

petitioner records caste as 'Mannervarlu'. The respondent is relying on the *Khasara Patrak* allegedly recording the caste of grandfather of the petitioner as 'Munurvar'. The learned counsel submits that there are no contra entries on record. Even the entry of 'Mannervarlu Kolam' cannot be said to be a contra entry.

3. Mr. Patil, the learned AGP submits that at the time of conducting the vigilance while granting validity to the father, the vigilance did not notice that 'Kolam Mannervarlu' in the school record of the father of the petitioner is written in a different ink. The vigilance has reported that the said entry is in a different ink in the present case. The learned counsel further submits that the *Khasara Patrak* in the name of the grandfather of the petitioner records caste as 'Munurvar'. The same is the contra entry.

4. The learned AGP further submits that the petitioner is failed in the affinity test also.

5. It appears that while granting validity to the father of the petitioner, the vigilance was conducted and the school record the father of the petitioner was also scrutinized. At that time, the vigilance did not find any infirmity in the

record of the father of the petitioner with regard to caste.

6. The petitioner has also relied on the *Pahani Patrak* wherein the caste of the grandfather of the petitioner is recorded as 'Mannervarlu'. However, the same in the *Khasara Patrak* records caste of the grandfather of the petitioner as 'Munnurvar'. In fact the *Khasara Patrak* nor the *Pahani Patrak* are the documents ment for recording the caste.

7. Considering the fact that the school record of the petitioner, his father, grandfather, uncle records caste as 'Mannervarlu' and / or 'Mannervarlu Kolam' and the fact that the father is issued with the validity certificate so also the real uncle of the petitioner, we pass the following order :

ORDER

(i) The impugned order is quashed and set aside.

(ii) The Committee shall issue validity certificate of 'Mannervarlu' Scheduled Tribe to the petitioner immediately.

(iii) The said validity certificate shall be subject to the decision that would be taken by the Committee, in case the validation proceeding in

respect of the father of the petitioner is re-opened.

8. The Writ Petition is disposed of. No costs.

(MANGESH S. PATIL, J.)

(S.V. GANGAPURWALA, J.)

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vmk/-