

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

WRIT PETITION NO. 4892 OF 2019

Gayatri Shivaji Ambatwad through
her father Shivaji Bhujangrao
Ambatwad .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Madhur A. Golegaonkar, Advocate for the Petitioner.
Shri K. M. Lokhande, A.G.P. for Respondents No. 1 to 3 and 5.
Shri S. G. Karlekar, Advocate for the Respondent No. 4.

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

DATE : 05TH JULY, 2019.

FINAL ORDER :

. The Tribe claim of the petitioner as belonging to 'Mannervarlu' (Scheduled Tribe) is invalidated. Aggrieved thereby present petition.

2. Mr. Golegaonkar, the learned advocate for the petitioner submits that, real uncle's son namely Govind Kishanrao Ambatwad had also sought for verification of his tribe claim of Mannervarlu (S.T.). Same was invalidated. Govind Kishanrao Ambatwad filed Writ Petition No. 10515 of 2017 before the

Division Bench of this Court at its Principal Seat at Bombay and this Court at Principal Seat under order dated September 28, 2017 allowed the writ petition and directed the Committee to issue validity certificate to Govind Kishanrao Ambatwad.

2. The learned advocate further submits that, 36 documents were produced by the petitioner consistently recording her tribe as Mannervarlu. Same have been discarded without assigning any cogent reasons. The Committee relied upon the entry of Munnurwar in the school record of Rukminbai Sakaram Ambatwad and the Committee refers her as relative. The relationship has not been stated. So also of Kalawati Rajeshwar Ambatwad who is said to be cousin aunt. Her relationship is also not stated. The learned advocate submits that, all the documents which were before the Committee were also verified in the vigilance in the validation proceeding of Govind Kishanrao Ambatwad. Same has been considered by this Court at Principal Seat in Writ Petition No. 10515 of 2017. According to the learned counsel, it is not a case of suppression of fact. Not only that old document of 1340 Fasli equivalent to 1930 is produced. Same is Gao Namuna III that is pahani patrak, in which tribe of the great grandfather of the petitioner namely Rajanna is referred to as 'Mannervarlu'. Said document was also referred to at the time of vigilance conducted in the case of Govind Kishanrao Ambatwad. No suspension has been raised of

the said document. The old document has more probative value.

3. The learned Assistant Government Pleader submits that, documents of Kalawati Rajeshwar Ambatwad that is cousin aunt of the petitioner show that word 'lu' has been inserted subsequently and she is the cousin aunt. Said document was not available at the time of vigilance of Govind Kishanrao Ambatwad. According to the learned A. G. P. in many of the documents, the word 'lu' has been added subsequently. That aspect has been considered by the Committee. The learned A. G. P. further submits that, petitioner has failed in the affinity test also.

4. We have considered the submissions canvassed by the learned counsel for respective parties.

5. All these documents referred to in the present case were also subject matter of consideration in validation proceeding of Govind Kishanrao Ambatwad, the son of the real paternal uncle of the petitioner. His claim was also invalidated. This Court at its Principal Seat at Bombay in Writ Petition No. 10515 of 2017 under order dated September 28, 2017 set aside judgment of the Committee invalidating tribe claim of Govind Kishanrao Ambatwad and directed to issue validity certificate in favour of Govind Kishanrao Ambatwad. According to the learned counsel,

the pre independence document will have more probative value. Pahani patrak of the year 1930 (1340 Fasli) in the name of great grandfather of the petitioner namely Rajanna refers tribe as Mannervarlu. Even school record of the petitioner, her father, brother, uncle record their tribe as Mannervarlu.

6. It is held by the Apex Court in a case of **Anand Vs. Committee for Scrutiny and Verification of Tribe Claim and others** reported in **2012(1) SCC 113** that the affinity test is not the litmus test.

7. Considering all aforesaid aspects of the matter, impugned judgment and order of the Committee is quashed and set aside. The Scrutiny Committee shall issue validity certificate to the petitioner of "Mannervarlu" (Scheduled Tribe) within a period of three (03) days from today.

8. In view of the above, the writ petition is disposed of. No costs.

9. Parties to act on authenticate copy.

[MANGESH S. PATIL, J.]

[S. V. GANGAPURWALA, J.]