

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

1010 WRIT PETITION NO.8787 OF 2019

AJAY VASANTRAO TOTAWAR

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

1011 WRIT PETITION NO.8795 OF 2019

VEDANGI AJAY TOTAWAR THROUH FATHER AJAY

VASANTRAO TOTAWAR

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

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Mr. S.M.Vibhute, Advocate for Petitioners.

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 petitioners as 'Mannervarlu' Scheduled Tribe is invalidated. The petitioners are father and daughter respectively.

2. Mr. Vibhute, the learned counsel for the petitioners submits that the paternal cousin of the petitioner is issued with the validity certificate under the orders of this Court in Writ Petition No.8945 of 2018, dated 03.08.2018. According to the learned counsel, there are other close relatives of the

petitioners who are issued with the validity certificate namely Chetan Vasant Rao and Nikhil Vyankatrao of 'Mannervarlu' Scheduled Tribe. The learned counsel submits that the school record of the petitioner, his father records caste as 'Mannervarlu'. Even the old record in the name of the grandfather of the petitioner records caste as 'Mannervarlu'. The document of the year 1955 of the cousin grandfather Vyankatrao records caste as 'Mannervarlu'. There are some contra entries with regard to the another cousin grandfather of 'Munurvar'. The same is also considered while granting validity to those persons.

3. Mr. Patil, the learned counsel submits that wherever the old entry of 'Mannervarlu' appears there is interpolation, whereas in the old entries of 'Munurvar' there are no interpolations or over writing. This is sufficient to negate the case of petitioners. The petitioners have also not proved the affinity test. The show cause notices are issued to the persons to whom the validity certificate are granted by the Committee.

4. The same statement was made when in the last year Writ Petition No.8945 of 2018 was decided under order dated 03.08.2018 i.e. the Writ Petition filed by Ambika Arvind

Totawar, the paternal cousin of the petitioner. This court, in the said Writ Petition directed the Committee to issue validity certificate to Ambika Arvind Totawar subject to the condition that if the validity in favour of validity holders is cancelled then action can be taken against her also. For one year, nothing has proceeded further.

5. There are entries of 'Mannervarlu' of the year 1955 in the school record of the cousin grandfather Vyankat. The caste in the school entries of the father, the petitioner appears to have been recorded as 'Mannervarlu'. Considering the order passed in Writ Petition No.8945 of 2018, dated 03.08.2018 and the validities as referred to above, 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 petitioners immediately.
- (iii) The said validity certificate shall be subject to the decision that would be taken by the Committee, in cases of the validity holders whose proceedings are re-opened.

6. The Writ Petitions are disposed of. No costs.

(MANGESH S. PATIL, J.)

(S.V. GANGAPURWALA, J.)

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vmk/-