

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

WRIT PETITION NO.8980 OF 2018

Ashwini D/o Vishnu Watane,
Age 19 years, Occu. Education,
R/o Nandkheda, Tq. Parbhani,
Dist. Parbhani.

... **Petitioner**

Versus

1. The State of Maharashtra,
Through its Secretary.,
Medical Education Department,
Mantralaya, Mumbai.
2. The Scheduled Tribe Caste Certificate
Verification Committee Aurangabad,
Through its Member Secretary,
Aurangabad.
3. The Director,
Directorate of Medical Education and
Research (DMER) Mumbai,
Government Dental College Building & Hospital,
St. George Hospital Compound,
Mumbai.
4. The Commissioner & Competent Authority,
State Common Entrance Test Cell,
Government of Maharashtra, CET Cell (DMER),
Government Dental College Building
& Hospital, St. George Hospital Compound,
Mumbai.

... **Respondents**

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Mr. S.R.Barlinge h/f Ms. Amita D. Chate, Advocate for
Petitioner.

Mr. P.K.Lakhotiya, AGP for Respondent Nos.1 to 3.

Mr. M.D.Narwadkar, Advocate for Respondent No.4.

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WITH

WRIT PETITION NO.9192 OF 2018

1. Ku. Ashwini D/o Vishnu Watane – Deleted.
2. Ku. Neha D/o Vishnu Watane,
Age 20 years, Occu. Student,
R/o Nandkheda, Tq. Parbhani,
Dist. Parbhani. ... **Petitioner**

Versus

1. The State of Maharashtra,
Through its Secretary.,
Medical Education and
Drugs Department,
Mantralaya, Mumbai-32.
2. The Scheduled Tribe Certificate
Scrutiny Committee, Aurangabad Region,
Aurangabad.
3. The Maharashtra University of
Health Sciences, Nashik,
Through its Registrar ... **Respondents**

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Mr. S.R.Barlinge, Advocate for Petitioner.

Mr. P.K.Lakhotiya, AGP for Respondent Nos.1 & 2.

Mrs. Vaishali S. Choudhari, Advocate for Respondent
No.3.

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

**RESERVED ON : 13.06.2019
PRONOUNCED ON : 19.07.2019**

JUDGMENT : (Per Mangesh S. Patil, J.) :-

Heard. Rule. The Rule is made returnable forthwith. The learned AGP and the learned advocates for the other respondents waive service. With the consent of both the sides, these Writ Petitions are being disposed of by this common judgment finally at the stage of admission since the petitioners are real sisters whose tribe claims have been invalidated by the respondent-Scrutiny Committee by the judgments and orders dated 09.07.2018 and 04.07.2018 respectively.

2. The petitioners claim to belong to 'Mannervarlu' Scheduled Tribe and possess such certificates. Their claims were referred to the respondent-Scrutiny Committee under the Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 (Maharashtra Act No.XXIII of 2001). The Committee referred the

matters to the Vigilance Cell which conducted inquiries and submitted reports. The reports were served to the petitioners who filed their reply / explanation on 27.03.2018. After conducting necessary hearing, the respondent – Committee invalidated both the claims. Hence these Writ Petitions.

3. The learned advocate for the petitioners vehemently submitted that they had submitted several documents including validity certificates of their paternal cousins namely Shubhangi Sitaramji Watane and Raju Dattrao Watane. However, the Committee without sufficient and cogent reason has overlooked such vital documents. It has wrongly discarded the documentary evidence produced by the petitioners. It has given unnecessary importance to minor differences overlooking substantial evidence. It has also unnecessarily given importance to minor discrepancy in the genealogies submitted. It has not taken into consideration the genealogy submitted by the petitioners pragmatically. No incorrect or misleading statement

was made while demonstrating the genealogy. Still the Committee has overlooked it. The observations and the conclusions by the Committee are perverse and arbitrary. It has failed to assign cogent and convincing reasons to discard the validity certificates issued to the paternal cousins. The learned advocate further submitted that even the respondent-Committee has failed to consider and apply the affinity test in the proper perspective. The tribe claims of the petitioners as belonging to Mennervarlu tribe have been wrongly invalidated.

4. The learned AGP submitted that the Committee has objectively scrutinized the entire documentary evidence and has come to a plausible conclusion which cannot be faulted with. It has also demonstrated as to how even in the school record of the father, the caste has been shown as 'Kolam Mannervarlu' which was not disclosed to the Committee while the tribe claim of the paternal cousins Shubhangi and Raju were being considered by the then Scrutiny Committee. There is no

sufficient and cogent documentary evidence to substantiate the tribe claim. There are several manipulations and over writings revealed during the course of inquiry in respect of the school records of several near relations of the petitioners. Though the affinity test cannot be the litmus test, one cannot overlook the fact that even the petitioners have failed to come clean through it which is indeed a corroborating circumstance to the conclusion drawn by the Committee invalidating tribe claims of the petitioners.

5. We have carefully perused the original files of the Scrutiny Committee in both the matters. We have also perused the original files of the Scrutiny Committee in respect of Raju Dattrao Watane and Shubhangi Sitaram Watane. It is apparent that going by the genealogy Raju happens to be second degree cousin of these petitioners who was initially granted validity of the tribe claim. Based on that Shubhangi who is the cousin sister of the petitioners' was granted validity. The petitioners are obviously banking upon these two validities to lay a

claim.

6. The earliest record available is in the form of the school record of Sitaram Baburao Watane, who is the father of Shubhangi, of the year 1956. It was not before the Scrutiny Committee while considering the claim of Raju. It clearly reads that the caste of Sitaram Baburao Watane was mentioned as 'Manervar'. Not only this but even Padmini and Indu who happen to be the sisters of Sitaram as well as even in the school record of the father of the petitioners'-Vishnu, it is specifically mentioned that the caste is 'Kolam Mannervarlu'. Similarly, even in respect of Kalavati Baburao Watane, same is the fact and mentions her caste as 'Hindu / Kolam Mannervarlu'. Ignoring minor discrepancies in the genealoies produced by the petitioners and the one found during vigilance inquiry, the afore-mentioned facts clearly demonstrate that those are vital and clearly refute the claim of the petitioners as belonging to Mannervarlu Tribe. No plausible explanation has been given by the petitioners either in their say to the report

of the vigilance or before the respondent-Scrutiny Committee explaining these entries.

7. It is trite that the entries in respect of caste have to be strictly interpreted. It is quite apparent that Kolam and Mannervarlu though appear in the same entry No.27 of the constitutional notification, those are distinct and cannot stand together. The constitutional entries have to be strictly interpreted and no deviation is permissible as has been laid down in the case of ***State of Maharashtra Vs. Milind Katware ; (2001) 1 SCC 4.***

8. Considering all these aspects, even on an independent scrutiny we do not find any illegality committed by the respondent-Scrutiny Committee in refuting the tribe claim of the petitioners, simultaneously questioning the validity granted to Shubhangi and Raju and deciding to reopen their cases.

9. It is trite that the old record has more evidentiary value and when the entry in respect of Sitaram Baburao Watane of the year 1956 reads his caste as 'Manervar'

and when in respect of father and other near relatives the entries are 'Kolam Mannervarlu' and where the word 'Mannervarlu' has been inserted subsequently, we find no sufficient and cogent reason to interfere in the decision arrived at by the Scrutiny Committee objectively based on the material available to it.

10. Both the Writ Petitions are therefore dismissed.
Rule is discharged.

(MANGESH S. PATIL, J.) (S.V.GANGAPURWALA, J.)

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vmk/-