

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

965 WRIT PETITION NO.9619 OF 2019

SUMATI RAJESH KOLHE

..PETITIONER

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS ..RESPONDENTS

...

Mr. Madhur A. Golegaonkar and Mr. Anil S. Golegaonkar, Advocates for the Petitioner.

Mr. P. S. Patil, AGP for Respondents-State.

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

DATED : 01st AUGUST, 2019.

PER COURT:-

1. Mr. Golegaonkar, learned counsel for the petitioner submits the tribe claim of the petitioner as Mannervarlu, Scheduled Tribe is invalidated.

2. The learned counsel submits that the father of the petitioner Rajesh is issued with validity certificate of Mannervarlu, Scheduled Tribe. The real uncle of the petitioner Sanjay is issued with validity certificate of Mannervarlu, Scheduled Tribe. The son of the real uncle of the petitioner namely Siddhant son of Prataprao is issued with the validity certificate of Mannervarlu, Scheduled Tribe. The vigilance was conducted at the relevant time. The learned

counsel submits that the school record of the petitioner, his father, uncle records caste as Mannervarlu, so also in respect of son of the uncle of the petitioner caste is recorded as Mannervarlu in school record. According to the learned counsel there are no contra evidence on record.

3. Mr. Patil, learned A.G.P. submits that in the school record of the real paternal aunt of the petitioner namely Pramela the caste is recorded as Mannurvar, so also in the revenue record of the great grandfathers of the petitioner namely Bhimrao, Digambar, Mahadu the caste is recorded as Mannurvar. The petitioner has failed in the affinity test. All these records demonstrate that the petitioner does not belong to Mannervarlu, Scheduled Tribe. The show cause notices are also issued to the validity holders relied by the petitioner.

4. It is not disputed that the father of the petitioner Rajesh, real paternal uncle of the petitioner Sanjay and son of another real paternal uncle of the petitioner Siddhant son of Prataprao have been issued with the validity certificate of Mannervarlu, Scheduled Tribe. The school record of the grandfather of the petitioner records caste as Hindu, the same would be a religion. So also in case of cousin grandfather Ramchandra, the caste is recorded as Hindu.

5. The revenue record as referred to in the order in the name of the great grandfather of the petitioner is said to have been obtained while conducting the vigilance in case of one Manisha daughter of Prabhu Kolhe. The petitioner has disputed the said relationship. According to the petitioner the petitioner was not given copy of the vigilance in case of Manisha. As such, the petitioner was not given opportunity to reply to the same. Considering the entries and the validities issued in favour of father, uncle and son of 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 to the petitioner of Mannervarlu, Scheduled Tribe. The same would be subject to the decision that would be taken by the committee in the proceedings that are reopened of the validity holders relied by the petitioner. In case, the validity certificates issued to the validity holders relied by the petitioner are canceled, then the petitioner would not be entitled for any

equity. The present order would be limited to the extent of the petitioner.

6. Writ Petition is disposed of. No costs.

(MANGESH S. PATIL)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

Devendra/August-19