

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10361 OF 2018

NIKHIL RAMESH MUPADE

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. Golegaonkar Madhur
A. and Mr. Golegaonkar Anil S.

AGP for Respondents No. 1 to 3 : Mr. P. S. Patil

Advocate for Respondents No. 4 : Mr.

Advocate for Respondents No. 4 & 5 :

Mr. P. G. Rodge

...

WITH

CA/8361/2019 IN WP/10361/2018

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CORAM: S. V. GANGAPURWALA &
MANGESH S. PATIL, J.

DATE: 18th JULY, 2019

PER COURT:

1. The caste claim of the petitioner as belonging to Mannervarlu, Scheduled Tribe is invalidated.

2. Mr. Golegaonkar, learned counsel for the petitioner submits that the real paternal uncle of the petitioner is issued with the validity certificate of Mannervarlu, Scheduled Tribe by the same committee. Two sons of the real paternal

uncle of the petitioner namely Rajeshwar and Ravindra are issued with the validity certificate of Mannervarlu, Scheduled Tribe. According to the learned counsel, the respondent is relying upon the school entry of one Babarao Mupade. He is not at all related to the petitioner. Even the vigilance has made enquiry and considered the genealogy in case of Ravindra Mupade, the son of the real paternal uncle of the petitioner. The genealogy was drawn. In that also nowhere Babarao is shown to be related to the family of the petitioner. The entry in the name of father of the petitioner as Hindu Kolam Mannervarlu of the year 1979 is relied by the respondent to suggest that the same is a contra entry. The vigilance in the case of Ravindra had also gone through the school entry of the father of the petitioner, the same is of 01.05.1974 and the caste is recorded as Mannervarlu. There is no overwriting or interpolation. There are no contra evidence on record.

3. Mr. Patil, learned Additional Government Pleader submits that Babarao appears to be the cousin grandfather of the petitioner and his school record of the year 1954 records caste as Munurvar, so also the record of the father of the petitioner records caste as Hindu Kolam Mannervarlu. The petitioner failed in the affinity test. The committee has considered all these aspects and rightly rejected the claim of the petitioner.

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

5. There is nothing in the file or the record to establish the relationship of the petitioner's family with Babarao. As far as the school entry of the father of the petitioner Ramesh of the year 1979 is concerned it records caste as Hindu Kolam Mannervarlu. Apart from that all entries produced by the petitioner in respect of the petitioner, his paternal uncle, his paternal brothers, father records caste as Mannervarlu in the school record. Moreover, real paternal uncle of the petitioner

and two sons of real paternal uncle of the petitioner's are issued with the validity certificates of Mannervarlu, Scheduled Tribe.

6. In the light of above, we pass following order.

7. The impugned order is quashed and set aside. The respondent shall issue validity certificate to the petitioner of Mannervarlu, Scheduled Tribe immediately. The validity certificate shall be subject to the decision that may be taken by the committee in case the validation proceedings in respect of the validity holders relied by the petitioner are reopened.

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

9. In view of disposal of the writ petition, the civil application also stands disposed of.

[MANGESH S. PATIL, J.] [S. V. GANGAPURWALA, J.]

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