

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

WRIT PETITION NO.6093 OF 2019

Samiksha d/o Sanjay Deshtwar

.. Petitioner

Versus

The State of Maharashtra through
its Secretary, Higher and Technical
Education Department, Mantralaya,
Mumbai and ors.

.. Respondents

Mr S.M. Vibhute, Advocate for petitioner
Mr P.S. Patil, Addl.G.P. for respondents no.1 and 2
Mr B.A. Shinde, Advocate for respondent no.3

**CORAM : S.V. GANGAPURWALA AND
ANIL S. KILOR, JJ.**

DATE : 21.09.2019

ORAL ORDER :

1. The tribe claim of the petitioner as 'Mannervarlu' Scheduled Tribe is invalidated.

2. Mr Vibhute, learned Counsel for the petitioner submits that the real paternal uncle of the petitioner namely Santosh Nagnath Deshatwar is issued with the validity certificate of Mannervarlu – Scheduled Tribe. The real paternal aunt of the petitioner namely Sarojana Nagnath Deshatwar is also issued with the validity certificate of Mannervarlu – Scheduled Tribe. The school record of the petitioner, her father so also paternal uncle and aunt records caste as Mannervarlu. Learned Counsel submits that the vigilance was also conducted at the time of granting validity to the paternal uncle of the petitioner. There are no contra evidence on record, still the validity has been rejected.

3. Mr Patil, learned Addl. G.P. submits that the uncle of the petitioner falsely represented that Moglaji did not have any brother. The other branch was suppressed. There are contra entries in the other branch, i.e. Babu Malanna. The said aspect has been considered by the committee. The petitioner has failed in affinity test. The petitioner also did not belong to the area where Mannervarlu - Scheduled Tribe persons reside.

4. We have considered the submissions advanced by the respective parties and also have gone through the record and the documents.

5. The record of the petitioner's father is of the year 1980. It records his caste as Mannervarlu - Scheduled Tribe. So also, in school record of the petitioner's real paternal uncle, paternal aunt caste is recorded as Mannervarlu. The contra evidence which the respondent alleges is of Babu M.Deshatwar. The school record has been traced out by vigilance and it is stated that in the school record of Babu M.Deshatwar Mannervarlu is written subsequently. In respect of other students, only religion has been mentioned and caste has not been mentioned. Even assuming that Mannervarlu was not written in the school record of Babu Malanna, then it would be that no caste is mentioned and only religion Hindu is mentioned. The same cannot be directly contra evidence.

6. Considering the validity issued to the real paternal uncle and the real paternal aunt after conducting of vigilance and the school record of petitioner's father, uncle, aunt, we pass the following order.

7. The Committee shall issue validity certificate to the petitioner of 'Mannervarlu' Scheduled Tribe immediately. The said certificate shall be

subject to the decision that would be taken in the proceedings that are reopened of the validity holders relied by the petitioner.

8. Writ Petition accordingly disposed of. No costs.

9. The present order is only restricted to the case of the petitioner.

(ANIL S. KILOR, J.)

(S.V. GANGAPURWALA, J.)

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