

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3185 OF 2019**

Mahesh Ashok Pentewad

.....Petitioner

Versus

The State of Maharashtra and Ors.

.....Respondents

Ms. Madhavi Ayyappan i/b. Talekar & Associates, Advocate for the Petitioner.

Mrs. M.P. Thakur, AGP for the Respondent-State.

**CORAM : RANJIT MORE &
SMT. BHARATI H. DANGRE, JJ.**

DATE : 22nd JULY, 2019.

P. C. :

1. The petitioner, who claims to be belonging to “Mannervarlu” Scheduled Tribe has assailed before us vide an order dated 27.11.2018 passed by the Scheduled Tribes Certificates Scrutiny Committee-Respondent No.2 (hereinafter referred to as the “committee”). The committee vide its detailed order has rejected the claim of the petitioner as belonging to Scheduled Tribe on the ground of he not being able to discharge the burden of proving his claim by documentary evidence.

2. With the assistance of the learned counsel for the petitioner, we have perused the impugned order passed by the committee. The petitioner has relied upon several documents, however, the oldest

document on which heavy reliance is placed by the petitioner is “Khasra Pahani Patrak” in respect of the his great grandfather Gangaram Laxman Pentewad of 1351 Fasli. In the said order, the committee has referred to the said document of 1351 Fasli (1941) recorded in modi language and it is discarded on the ground that the entry in respect of the Gangaram Laxman Pentewad is recorded in different ink where the caste “Mannevarlu” is recorded. The Committee also makes an observation that this document is produced by the petitioner after the vigilance enquiry was over, and therefore, could not be examined by the committee through the vigilance cell. Without referring this document to the vigilance cell, it is recorded that the entry of the grandfather is recorded in different handwriting.

3. We have noted that the committee has not examined this document through the vigilance cell and since this is the oldest document with great probative value, we deem it fit to afford one opportunity to the petitioner to rely on this document and direct the committee to examine the said document through the vigilance cell.

4. The learned counsel for the petitioner also submits that the cousin uncle of the petitioner namely Kisan Pentewad has been granted a validity certificate, but the committee has also erroneously not taken into consideration the said document on the ground that the name of the

petitioner do not find place in the genealogy produced by the cousin uncle. In any contingency, this cannot be a ground to discard the said document since in the light of the judgment in Apoorva d/o. Vinay Nichale vs. Divisional Caste Certificate Scrutiny¹ the committee is expected to give due weightage to the validity certificates issued in favour of the blood relatives.

5. The learned counsel for the petitioner also submitted that the petitioner has appeared in B.Tech examination in May 2018 and his result is declared on 12.06.2018, but the college has refused to grant him a degree certificate in the wake of the impugned order passed by the committee rejecting his claim.

6. In such circumstances, we deem it fit to dispose of the writ petition by quashing and setting aside the impugned order dated 27.11.2018. We direct the committee to take into consideration the claim of the petitioner in light of the two documents i.e. Khasra Pahani Patrak of Fasli 1351 and validity certificate in favour of the cousin uncle of the petitioner. The said decision should be taken by the committee within a period of two months from today. The petitioner is directed to appear before the Committee on Monday i.e. on 29th July 2019 and after his presence, the requirement of issuance of fresh notice to the petitioner is dispensed with.

¹ 2010(6) Mh.L.J.401

It is made clear that the petitioner will not seek any adjournment before the committee and the final decision would be taken by the committee by keeping in view the settled legal position of law in this regard. Accordingly, the writ petition is allowed in terms of prayer clause (b) and is disposed off as such.

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]