

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

WRIT PETITION NO. 8074 OF 2020

Vaishnavi Dattatraya Nilawad .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

**WITH
WRIT PETITION NO. 8077 OF 2020**

Sheetal Uttam Nilawad .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

**WITH
WRIT PETITION NO. 8078 OF 2020**

Neha Subhah Nilawad .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Sunil M. Vibhute, Advocate for the Petitioner in all matters.
Shri K. N. Lokhande, A.G.P. for Respondent Nos. 1 and 2 in all matters.

Shri T. M. Venjane, Advocate h/f Shri P. R. Gaikwad, Advocate for the Intervenor in all matters.

**CORAM : S. V. GANGAPURWALA AND
SHRIKANT D. KULKARNI, JJ.
DATE : 09TH DECEMBER, 2020.**

FINAL ORDER :

. All these petitioners are paternal cousins of each others. The tribe claims of the petitioners as belonging to 'Mannervarlu' (Scheduled Tribe) are invalidated by a common judgment.

2. Mr. Vibhute, the learned advocate for the petitioners submits that, fourteen validities exist in the family of petitioners. The fathers of all the petitioners are issued with validity certificates of Mannervarlu (S.T.). The Committee has raised doubt about the entry of Mannervarlu in the school record of Venkati while issuing validity certificate to the daughter and son of Venkati namely Jotsna and Nagesh. The vigilance has considered the entry in the school record of Venkati and, thereafter validity was issued. The old school record in favour of Maruti, cousin uncle of the petitioners is of the year 1971. The Committee also did not find interpolation in it. The committee relied upon the invalidation of one Vivek Digambar Nilewar and Kum. Swati Digambar Nilewar. The relation is shown as cousin brother and sister of the petitioners. These persons are not related to the petitioners even distantly. Their surname is Nilewar and petitioners' surname is Nilawad. They are not from same village also. The learned counsel further submits that, it is not case of suppression of documents at the time of issuance of validity certificates to the paternal cousins of the petitioners and the fathers of the petitioners. The learned counsel relies on the judgment of the Apex Court in a case of Apoorva Vinay Nichale Vs. Divisional Caste Certificate Scrutiny

Committee and others reported in *2010(6) Mh.L.J. 401*.

3. The learned Assistant Government Pleader for respondents State submits that, the entry of tribe in the school record of Venkati shows that said entry is interpolated. The word 'lu' is added subsequently. The Committee has considered the same. The petitioners have not disproved the relationship of persons namely Swati Digambar and Vivek Digambar, whose tribe claims are invalidated. The petitioners have failed in affinity test also.

4. We have also heard Mr. Venjane, the learned advocate for the intervenors.

5. We have considered the submissions canvassed by the learned counsels for respective parties.

6. It is not disputed that, all these petitioners are paternal cousins of each others and their claims are invalidated by a common judgment. The following persons in the family of petitioner in Writ Petition No. 8077 of 2020 are issued with the validity certificates of Mannervarlu (S.T.).

Sr. No.	Name of the validity certificate holder	Date of Validity Certificate	Relation with the petitioner
01.	Bhanudas Baliram Nilawad	08.08.1997	Cousin uncle
02.	Madhav Balaji Nilawad	08.08.1997	Cousin uncle
03.	Uttam Sayaji Nilawad	21.03.2003	Father

04.	Jotsna Venkatrao Nilawad	31.07.2004	Cousin Sister
05.	Mayuri Madhavrao Nilawad	09.06.2005	Cousin Sister
06.	Nagesh Venkatrao Nilawad	09.06.2005	Cousin brother
07.	Subhash Balaji Nilawad	15.02.2006	Cousin Uncle
08.	Datta Baliram Nilawad	05.04.2006	Cousin Uncle
09.	Venkat Baliram Nilawad	30.05.2006	Cousin Uncle
10.	Maroti Baliram Nilawad	30.05.2006	Cousin Uncle
11.	Sneha Venkatrao Nilawad	15.07.2008	Cousin Sister
12.	Supriya Madhavrao Nilawad	10.11.2008	Cousin Sister
13.	Swapnil Venkatrao Nilawad	11.03.2010	Cousin Brother
14.	Pankaj Maroti Nilawad	09.08.2011	Cousin Brother

7. The fathers of all these petitioners are issued with validity certificates of Mannervalu (S.T.) and also real paternal cousins.

8. The entry in the school record of Maruti of the year 1971 does not appear to be disputed. The school entry of Venkatrao @ Venkati appears to be Mannervalu. The committee has found that word 'lu' has been added subsequently. The said matter was subject matter of consideration when validity was issued to the daughter and son of Venkatrao namely Jotsana and Nagesh. The show cause notices are issued to them.

9. In the case of Anand Vs. Committee for Scrutiny reported in *(2012) 1 SCC 113*, the Apex Court has held that, affinity test is not a litmus test. The committee has decided to reopen the validity

certificates issued to the relatives of the petitioners and relied by the petitioners.

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

11. The impugned judgment and order is quashed and set aside. The Committee shall issue validity certificates to the petitioners of 'Mannervarlu' (Scheduled Tribe) immediately. Said validity certificates would be subject to the decision that would be taken by the Committee in the proceedings reopened of the validity holders relied by the petitioners.

12. In the light of the above, writ petitions are disposed of. No costs.

[SHRIKANT D. KULKARNI, J.] [S. V. GANGAPURWALA, J.]

bsb/Dec. 20