

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

**972 WRIT PETITION NO.8163 OF 2020
WITH
CA/8295/2020 IN WP/8163/2020**

**ANIKET NAGNATH NALMELWAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for Petitioner: Mr. Chandrakant R Thorat
AGP for Respondents No. 1 & 3: Mr. S. P. Tiwari
Advocate for Respondent No. 2: Mr. M. D. Narwadkar
Advocate for Intervenor: Mr. T. M. Venjane

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**CORAM: S. V. GANGAPURWALA &
SHRIKANT D. KULKARNI, JJ.**

DATE: 11th DECEMBER, 2020

PER COURT:

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

2. Mr. Thorat, learned Counsel for the petitioner submits that the father of the petitioner namely Nagnath is issued with the validity certificate of Mannervarlu, Scheduled Tribe. The vigilance was conducted before issuing validity to the father of the petitioner. All the entries referred to in the present matter were subject matter of consideration by the vigilance

and the committee before issuing validity to the father of the petitioner. The learned Counsel further submits that the vigilance officer during the course of vigilance in the case of the father did not find any interpolation and for the same entries the committee now observes that some of the entries are interpolated. According to the learned Counsel, the same is not permissible. The learned Counsel submits that in case of the father of the petitioner, the father of the petitioner had passed the affinity test. Moreover, affinity test is not the litmus test. The learned Counsel relies on the judgment of the Apex Court in case of **Anand Vs. Committee for Scrutiny and Verification of Tribe Claim and others** reported in 2011 AIR 9 (SCW) 6559.

3. The learned A.G.P. submits that the school entry of caste in the school record of grandfather of the petitioner appears to be interpolated. The word "lu" is added subsequently and in a different handwriting. The same is the case in the school record of the father's cousin

where "lu" is added subsequently. These anomalies were not considered while validity was issued to the father of the petitioner. The learned A.G.P. submits that while issuing validity to the father of the petitioner the validity issued to the maternal relative of the petitioner's father were considered. The same was improper. It is further submitted that the petitioner has failed in the affinity test.

4. Mr. Venjane, the learned Counsel supports the arguments of the learned A.G.P.

5. It is not disputed that the father of the petitioner is issued with the validity certificate of Mannervarlu, Scheduled Tribe. Before issuing validity to the petitioner, the vigilance was conducted and the entries of the grandfather of the petitioner, the father of the petitioner, the uncle of the petitioner were verified by the vigilance cell and they do not report any interpolation. It is trite that the validity issued to the maternal relatives is not relevant.

The fact remains that all the entries which are relied by the petitioner in the present case were subject matter of consideration while issuing validity to the father of the petitioner. The show cause notice is issued to the petitioner.

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

7. The impugned order is quashed and set aside. The committee shall issue validity certificate to the petitioner of Mannervarlu, Scheduled Tribe.

8. The said validity certificate shall be subject to the decision that would be taken by the committee in the cases re-opened of the validity holders relied by the petitioner.

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

10. In view of disposal of the writ petition, the civil application is also disposed of.