

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

WRIT PETITION NO. 8135 OF 2020

Sainath s/o Sanjay Akulwad

...Petitioner

Versus

Director of Medical Education and
Research CET Cell and Ors.

...Respondents

.....

Mr. Sagar S.Phatale, Advocate for Petitioner

Mr. P.K.Lakhotiya, A.G.P. for Respondents No. 1 and 3

Mr. S.G.Karlekar, Advocate for Respondent No. 2

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

DATE : 17-12-2020.

PER COURT :

01. The tribe claim of the petitioner as belonging to Mannervarlu scheduled tribe is invalidated.

02. Mr. Phatale, the learned Counsel submits that, father of the petitioner Sanjay, real uncle of the petitioner Rajaram, cousin uncle of the petitioner Balaji are issued with the validity certificates of Mannervarlu (S.T.). The learned Counsel submits that in the school record of the petitioner's father, sister, uncle the tribe is recorded as Mannervarlu. No interpolation was found by

the committee in any of the entry. The learned Counsel submits that the petitioner has denied the relations of the persons shown in census report. The committee observed that in the census report the tribe is recorded as Munarwad. In the impugned Order only names of the persons are mentioned whose record is referred by the committee. No surnames have been mentioned. The learned Counsel submits that the said entries are not admissible in evidence as per the Section 15 of the Census Act, 1948. The learned Counsel relies on the Judgment of the *Apoorva Vinay Nichale V/s Divisional Caste Certificate Committee reported in 2010(6) MHLJ 401* to submit that the validities granted to paternal relatives are relevant and the same should be considered. The learned Counsel also relies on the Judgment *Anand V/s Committee for Scrutiny and Verification of Tribe Claims and Ors. Reported in (2012) 1 SCC 113* and submits that affinity test is not the litmus test.

03. Mr. Lakhotiya, the learned A.G.P. submits that all the entries relied by the petitioner are from 1980 onwards. In the census report the tribe of the cousin grant father is recorded as Munarwad. The same is a different tribe/caste. These documents were suppressed

while obtaining validity by Balaji. The petitioner is relying on the validity issued to one Balaji and Balaji has received validity on the basis of documents from maternal relatives. Father of the petitioner and uncle of the petitioners are issued with validity on the basis of validity issued to Balaji. Committee has rightly considered all these aspects. The petitioners has failed in the affinity test.

04. We have considered the submissions canvassed by the learned Counsel for respective parties.

05. It is matter of record that the father of petitioner Sanjay, real uncle of petitioner Rajaram and the cousin uncle of petitioner namely Balaji have been issued with the validity certificate of Mannervarlu (s.t.). The vigilance was conducted before issuing validity to Balaji.

06. In the present case as far as school entries of the petitioner, his father, uncle and brother are concerned, the vigilance has not found any interpolation. The dispute is with regard to the census entries of the petitioner's grand father, cousin grand father and cousin

uncle which records tribe as Munarwad. The petitioner denied the relationship on the ground that the surnames are not mentioned. The show-cause notices are issued to the petitioner's father and real uncle.

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

08. The impugned order is quashed and set aside.

09. The committee shall issue validity certificate to the petitioner of Munnervarlu scheduled tribe immediately.

10. The said validity certificate would be subject to the decision that would be taken by the committee in the proceedings re-opened of the validity holders and relied by the petitioner.

11. Writ petition is disposed of. No costs.

[SHRIKANT D. KULKARNI]

JUDGE

[S.V.GANGAPURWALA]

JUDGE

Dahibhate/-