

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

**WRIT PETITION NO.9354 OF 2019**

Gangaram s/o Arvind Sudewad,  
Age-18 years, Occu:Student,  
R/o-At-Mangrul, Taluka-Himayatnagar,  
District-Nanded

**...PETITIONER**

**VERSUS**

- 1) The State of Maharashtra,  
Through its Secretary,  
Tribal Development Department,  
Mantralaya, Mumbai-32,
- 2) The Commissioner & Competent Authority,  
Government of Maharashtra,  
State Common Entrance Test Cell,  
8<sup>th</sup> Floor, New Excelsior Building,  
A.K. Nayak Marg, Fort,  
Mumbai-400 001,
- 3) Deputy Director (Research)  
and Member Secretary,  
Scheduled Tribe Certificate  
Verification Committee,  
Near Saint Lawrence High School,  
Town Centre, CIDCO, Aurangabad,  
Dist-Aurangabad.

4) College of Engineering,  
Through its Director,  
Wellesely Rd., Shivajinagar,  
Pune-411 005

**(Respondent No.4 deleted as per  
Court's order dated 16<sup>th</sup> August, 2019)**

**...RESPONDENTS**

...  
Mr.Chandrakant R. Thorat Advocate for Petitioner.  
Mr.S.K. Tambe, A.G.P. for Respondents No. 1 to 3.  
Respondent No.4 deleted as per Court's order  
dated 16<sup>th</sup> August, 2019  
...

**CORAM: SUNIL P. DESHMUKH AND  
R.G. AVACHAT, JJ.**

**DATE : 14<sup>th</sup> OCTOBER, 2020**

**ORAL JUDGMENT [PER SUNIL P. DESHMUKH, J.] :**

1. Rule. Rule made returnable forthwith. Heard learned counsel for appearing parties finally, by consent. Learned AGP refers to that officials of the scrutiny committee is present in the court.

2. The petition is moved by petitioner challenging decision of respondent No. 3 – scheduled tribe certificate verification committee, Aurangabad dated 18<sup>th</sup> July 2019, invalidating his claim as belonging to "*Mannervarlu*", scheduled

tribe pursuant to tribe certificate issued in his favour dated 15<sup>th</sup> November 2018, with further directions to the concerned, to take action according to provisions of The Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000.

3. After hearing learned counsel for the parties, the position emerges that the committee has declined to consider documents being of 1980 onwards. The committee, in its decision, also makes reference to vigilance cell report, wherein it is claimed that one *Prakash Satwaji Sudewad* and *Sudewad Subhash Satwa*, who are referred to be obstructed relatives, their documents do not refer to their tribe as "*Mannervarlu*". The committee purportedly has inferred that there are various groups like *Munnerwar*, *Munnurwar*, *Munnur*, *Telgu Munnur*, *Munnurwar Telgu*, *Munnurcapu*, *Munnurwad*, which had nothing to do with listed scheduled tribe, as appearing at serial No. 27 in the list of scheduled tribes. While, it has been considered by the committee that after "*Mannervar*" letter "*lu*" appears to be interpolated in school record of father of petitioner without

following due procedure coupled with vigilance cell report showing Prakash Satwaji Sudewad and Sudewad Subhash Satwa bearing no record of their tribe being "*Mannervarlu*", and further that there is no corroboration at all in their affinity test and since the validity certificates issued to his uncle and cousin, appear to be fraudulently obtained, particularly the one issued to his uncle, Chandrao, which is issued under the signature of unauthorized officer, it did not consider it expedient to validate the claim of petitioner, to be belonging to "*Mannervarlu*" scheduled tribe.

4. Real uncle of petitioner, who is elder brother of his father, namely – Chandrao Gangaram Sudewad, had been issued validity certificate as belonging to "*Mannervarlu*", scheduled tribe on 10<sup>th</sup> March 2010 and that validity certificate has also been issued to his daughter even before him i.e. on 30<sup>th</sup> July, 2009, namely – Preeti Chandrao Sudewad. Relationship of said validity holders with the petitioner being close relative on paternal side, is not disputed. The school record submitted on behalf of petitioner in respect of his father refers to his tribe as "*Mannervarlu*", which is of the year 1980. His service record also refers to said tribe and service-book extract has been relied on. The genealogy depicts *Gangaram*, grand-father of petitioner had

three sons, namely – Chandrao, Pochiram and Arvind. School record of petitioner's close relatives does bear their tribe to be "*Mannervarlu*". There are few other documents like domicile certificates and tribe certificates issued in their favour, which refer to their tribe to be "*Mannervarlu*". *Albeit*, a few documents like  *khasra patrak*, 7 / 12 extract, Aadhar card do not refer to any tribe.

5. In a writ petition, bearing No. 8570 of 2019 (*Suraj Prakash Ingewad vs. the State of Maharashtra and others*), argument had been advanced that the letter "*lu*" is added subsequently and that petitioner could not prove the affinity. The division bench of this court observed that, while it has not been disputed that father of petitioner and real uncle have been issued validity certificates as belonging to "*Mannervarlu*" scheduled tribe, one single entry would not weigh.

6. A decision can be taken into account dated 1<sup>st</sup> August, 2019 in writ petition No. 9218 of 2019 (*Sagar Satish Totawar vs. the State of Maharashtra and others*), wherein two real paternal uncles of petitioner as well as the school record of petitioner, his father and other relatives referred to "*Mannervarlu*"

scheduled tribe, the division bench has observed that relationship of petitioner with paternal uncles is not disputed and while the school record of petitioner's father bears his tribe as "*Mannervarlu*", it had been considered expedient to set aside the invalidation order passed by the committee directing it to issue validity certificate, subject to the decision that would be taken by committee in proceedings reopened in respect of the validity holders relied upon by the petitioner.

7. It also emerges that reliance placed on the vigilance cell report in respect of Prakash Satwaji Sudewad and Sudewad Subhash Satwa, while in genealogy submitted by petitioner, their names do not appear. In absence of any material in respect of their relation, its relevance and consideration may call for reasonable explanation in respect of the same.

8. It would have to be considered that there is no denial of the factual position that as on the date, committee has not invalidated certificates issued to petitioner's real uncle and real cousin, *albeit*, it has been referred to that matter is under investigation and much progress has been made.

9. This court in similar circumstances in writ petition No. 5641 of 2020 (*Kum. Maseera Parvin d/o Mohd. Asfaque Shaikh and another vs. the State of Maharashtra and others*), while it had been contended on behalf of the State that proposal has been moved for reopening of the proceedings against the family members of petitioners, who are granted validity certificates by the committee, directions have been issued to committee to issue validity certificates to petitioners therein and in case of review of judgment/s in the petition/s, it was kept open for respondents to proceed against petitioners in accordance with law.

10. In the decision in writ petition No. 9056 of 2019 (*Ganesh s/o Sudhakar Bodhgire vs. The State of Maharashtra*) dated 21<sup>st</sup> August, 2019, wherein taking into account the decision of division bench of this court in the case of *Apporva Vinay Nichale vs. Divisional Caste Certificate Scrutiny Committee No.1 and others*, reported in 2010(6) *Mh.L.J.* 401, which was based upon the Supreme Court judgment in the case of *Raju Ramsing Vasave vs. Mahesh Deorao Bhivapurkar and others*, reported in (2008) 9 *SCC* 54, the division bench has considered it expedient to follow the suit of the same and directed to issue tribe validity certificate to the petitioner

therein forthwith. The decision further refers to that if the proceedings for cancellation of caste validity holders are answered against such certificate holders, it would be open for the committee to issue show cause notice to petitioner, as to why validity certificate granted to him should not be cancelled and keeping it open for the committee to take those proceedings to its logical end. The decision further particularly refers to that certificate issued to the petitioner, would be subject to the outcome of proceedings for cancellation of validity issued in favour of his blood relatives.

11. Having regard to decisions and facts and circumstances in foregoing discussion, it appears to be expedient to set aside impugned order and direct issuance of validity certificate to petitioner, subject to decision in re-opened cases.

12. Thus, the impugned order dated 18-07-2019 passed respondent no. 3 – Scheduled Tribe Certificate Verification Committee, Aurangabad is set aside. Respondent No. 3 shall forthwith issue validity certificate to the petitioner as belonging to "*Mannervarlu*" scheduled tribe. The same would be subject to the decision that would be taken by the committee in the

proceedings reopened of the validity holders relied upon by the petitioner. In case, the validity certificates issued to the validity holders relied upon by the petitioner are cancelled, then the petitioner may not be in a position to claim any equities and it would be open for the committee to take recourse as per law.

13. Rule is made absolute accordingly. Writ petition is disposed of.

14. Parties to act upon authenticated copy of this order.

15. Needless to refer to that this order shall not influence the proceeding reopened by the respondent no. 3 - Committee in respect of validity holders.

**(R.G. AVACHAT, J.)**

**[SUNIL P. DESHMUKH, J.]**