

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8348 OF 2020

Saikiran S/o Sambhaji Mantewad

...Petitioner

Versus

The State of Maharashtra and Ors.

...Respondents

Mr M.A. Golegaonkar, Advocate for Petitioner
Mr P.S. Patil, Addl. G.P. for Respondents-State

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

DATE : 18th DECEMBER, 2020

PER COURT :

1. The caste claim of the petitioner as "Mannervarlu" Scheduled Tribe is invalidated.
2. Mr Golegaonkar, the learned Counsel for the petitioner submits that the Committee has invalidated the caste claim without considering the documents. There is not a single contra entry. Some of the documents relied by the petitioner considering them as that of the relatives of the petitioner is incorrect. Those persons are not even remotely related to the petitioner. The learned Counsel submits that the entry of the caste as mannervarelu in the school record of the father cannot be considered as contra evidence. There is no caste

as Mannervarelu. The said entry ought to be considered for caste Mannervarlu. The learned Counsel relies on the judgment of this Court dated 13th September, 2017 in Writ Petition No. 3223 of 2002.

3. The learned Counsel submits that the vigilance Cell has not found any interpolation. The vigilance report confirmed the fact that the entries in the school record of the father of the petitioner, his brother, and the petitioner do not show any signs of interpolation. According to the learned Counsel, the affinity test is not a litmus test. The learned Counsel placed reliance on the judgment in the case of ***Apoorva d/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No. 1 and others*** reported in ***2010 (6) Mh.L.J. 401***.

4. The learned Counsel submits that the petitioner has answered the questions regarding the traits correctly. The Committee has nowhere observed as to how those traits are not of Mannervarlu tribe.

5. Mr Patil, the learned Additional Government Pleader submits that the conduct of the petitioner is required to be considered. The petitioner approached the Committee on 7th November, 2020 and the Committee was required to decide the claim within a period of 20 days. No proper time was given to the Committee to decide the proceedings. According to the learned

Additional Government Pleader, the entries in the school record of the petitioner's father does not record caste as Mannervarlu, but the same is recorded as Mannervarelu. The entries are of recent origin. The petitioner has failed in affinity test. The certificate of the father of the petitioner was confiscated on the ground of wrong spelling in the year 2017. Though the caste certificate issued in February, 2020, the father of the petitioner has not yet submitted the proposal for verification. The conduct of the petitioner and his father is suspicious. To avoid invalidation, the father of the petitioner has not yet submitted the caste certificate in the correct form for verification of his caste claim.

6. We have considered the submissions.

7. The documents on record are from the year 1981, wherein caste is recorded in the school record of the petitioner's father as Mannervarelu and in case of the petitioner's brother, his caste recorded as Mannervarlu, same is the case in the school record of the petitioner's school record

8. The Committee has placed reliance upon the entries in the school record of the persons of the village. According to the Committee, in the school record of the persons belonging to the petitioner's community caste is recorded as Mannurwar, Mannur, Maratha. They do not appear to be the relatives of the petitioner. No

relationship has been established by the Committee.

9. It appears that the petitioner approached the Committee late. The petitioner was expected to approach the Committee by filing proposal much earlier. No contra entries appear on the record. Mannervarelu cannot be said to be contra entry as is observed by this Court in Writ Petition No. 3223 of 2002 under judgment dated 13th September, 2017. The affinity test is not a litmus test. The learned Counsel placed reliance on the judgment in the case of ***Anand Vs. The Committee for Scrutiny Verification and others reported in (2012) 1 SCC 113.***

10. If the Committee states that no sufficient time was given for vigilance, we may permit the Committee to carry on further investigation. We would issue the validity certificate to the petitioner subject to the same.

11. In light of the above, we pass the following order :-

- (i) The impugned order is quashed and set aside.
- (ii) The Committee shall issue validity certificate to the petitioner of "Mannervarlu" Scheduled Tribe immediately.
- (iii) The said certificate would be subject to the decision that would be taken by the Committee in the validation

proceeding of father of the petitioner and so also, in case the Committee intends to make further investigation in the petitioner's claim, they are entitled to do so, and if they find any other incriminating evidence/document against the petitioner, they may issue show cause notice to the petitioner, which the petitioner would be bound to reply and the Committee can thereafter take fresh decision. In that case, the petitioner would not be entitled for equity.

12. The writ petition is disposed of. No costs.

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

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