

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

WRIT PETITION NO. 8469 OF 2020

Omkar Rameshwar Ijalkar

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Mr. A. S. Golegaonkar, Advocate h/f Mr. M. A. Golegaonker, Advocate
for the Petitioner.

Mr. P. S. Patil, Addl. G. P. for Respondents-State.

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

DATED : 21st DECEMBER, 2020.

PER COURT:-

. The tribe claim of the petitioner as belonging to “Mannervarlu”
(Scheduled Tribe) is invalidated.

2. Mr. Golegaonkar, learned counsel for the petitioner submits that the scrutiny committee has issued validity certificate in favour of the father of the petitioner, two real brothers, uncle and three cousin brothers. The learned counsel for the petitioner further submits that the committee had invalidated the tribe claim of another real brother of the petitioner namely Santosh. He had filed Writ Petition No. 10356 of 2017. The Division Bench of this Court at the Principal Seat at Bombay

under judgment and order dated 04.10.2017 allowed the writ petition and directed the committee to issue validity certificate to him. In spite of the same, the committee has invalidated the tribe claim of the petitioner.

3. Mr. Patil, learned Additional Government Pleader submits that the petitioner's brother and his relatives who have been issued with the validity certificate and relied by the petitioner have played a fraud. The same is considered by the committee and as such, the committee has rightly invalidated the tribe claim. The show cause notice is issued to those persons. The learned Addl. G. P. further submits that the committee has decided to file review application before the Principal Seat at Bombay for review of the judgment and order dated 04.10.2017 in Writ Petition No. 10356 of 2017.

4. It is a matter of record that the Division Bench of this Court at the Principal Seat at Bombay under judgment and order dated 04.10.2017 allowed the writ petition filed by the real brother of the petitioner namely Santosh S/o Rameshwar Ijalkar bearing Writ Petition No. 10356 of 2017 and directed the committee to issue validity certificate of "Mannervarlu" (Scheduled Tribe) to him. The Division Bench of this Court in the said Writ Petition observed as under :

"4. On going through the impugned order, we find that while

discarding the aforesaid validation certificates, the committee had observed that in the school admission extract of the petitioner's uncle, though the caste has been mentioned as "Mannervarlu" but there is interpolation and "Mannerwa" has been added with "ralu". In this regard, the case of the petitioner is that as per the vigilance report itself, the record is in torn condition and the caste has been mentioned as "Mannervarlu" and that "Mannerwar" has been made as "Mannervarlu". According to the petitioner, on the basis of the torn record and the opinion of vigilance cell, the caste validation certificates which were already granted to the petitioner's father and various other relatives could not have been discarded by the Committee.

7. The impugned order does not reflect that the various close relatives of the petitioner including his father had obtained the validation certificate by playing fraud or by misrepresentation or their orders were without jurisdiction. The document on which reliance is placed by the committee cannot be said to be vital document to discard the aforesaid validity certificates. Thus in our considered view, the reason assigned by the Respondent No. 2 – Committee for rejection of the Petitioner's claim cannot be sustained as it runs contrary to the view taken by the Division Bench of this Court in the case of Apoorva Vinay Nichale (supra).

8. In the circumstances, we allow the petition and set aside the impugned order. As a result, the Respondent No. 2-Committee is directed to issue the caste validity certificate to the petitioner forthwith on receipt of authenticated copy of this order."

5. In the light of the authoritative pronouncement of the Division Bench of this Court in case of real brother of the petitioner we have no option, but to follow the same course.

6. In the light of the above, we pass the following order.
7. The impugned judgment is quashed and set aside. The scrutiny committee shall issue validity certificate to the petitioner of “Mannervarlu” (Scheduled Tribe) immediately.
8. In case, the committee decide to file review of the judgment and order dated 04.10.2017 in Writ Petition No. 10356 of 2017 and in case the said judgment is reviewed, then the present judgment would be subject to the judgment in the review petition that would be filed by the respondent in Writ Petition No. 10356 of 2017.
9. Writ petition accordingly is disposed of. No costs.

(SHRIKANT D. KULKARNI)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

PS.B.