

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

WRIT PETITION NO. 703 OF 2021

Jay s/o Ramesh Anantwar

.. Petitioner

Versus

The State of Maharashtra and ors.

..Respondents

Mr G.K. Chinchole, Advocate h/f Mr G.B. Patunkar, Advocate for petitioner

Mr P.S. Patil, Addl.G.P. for respondents no.1 and 2

Mr M.D. Narwadkar, Advocate for respondent no.3

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

DATE : 15th January 2021

PER COURT :

1. The caste claim of the petitioner as Mannervarlu - Scheduled Tribe is invalidated.
2. The learned Advocate for the petitioner submits that the father of the petitioner is issued with the validity certificate of Mannervarlu - Scheduled Tribe after conducting the vigilance. The entries referred to by the petitioner in the present case and observed by the Committee to be manipulated were the subject matter of consideration while granting validity to the father of the petitioner. It is further submitted that the real paternal aunt of the petitioner namely Anita is also issued with the validity certificate of Mannervarlu - Scheduled Tribe. The learned Counsel relied upon the judgment of Division Bench of this Court in 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** to submit that validity issued to the paternal relative is a relevant fact. The learned Advocate relied upon the judgment of Apex Court in case of **Anand vs Committee for Scrutiny and Verification of Tribe Claims and Ors.** reported in **(2012) 1 SCC 113** to submit that the affinity test is not a litmus test.

3. The learned A.G.P. submits that at the time of vigilance in case of father of the petitioner the entries referred to in the school record of the father and aunt of the petitioner were considered by the vigilance. However, the vigilance at that time did not consider the interpolation. The same has been considered now. It is further submitted that the petitioner has failed in the affinity test.

4. If we accept the submissions of learned A.G.P., there were two vigilance reports contrary to each other and while granting validity certificate to the grandfather of the petitioner the Committee and vigilance did not observe interpolation. It is submitted that show cause notices are issued to father and aunt of the petitioner.

5. The judgment in case of **Apoorva d/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee** (supra) would be relevant. The show cause notices are issued to the validity holders relied upon by the petitioner.

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

7. The impugned order is quashed and set aside.

8. The Committee shall issue validity certificate to the petitioner as Mannervarlu - Scheduled Tribe immediately.

9. 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 relied by the petitioner.

10. Writ petition disposed of. No costs.

(**SHRIKANT D. KULKARNI, J.**)

(**S.V. GANGAPURWALA, J.**)