

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

WRIT PETITION NO. 1276 OF 2021

Shruti Jagdish Ambulgekar
and another

.. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Shri Sunil M. Vibhute, Advocate for Petitioners.

Shri S. K. Tambe, A.G.P. for Respondent Nos. 1 and 2.

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

DATE : 27TH JANUARY, 2021.

FINAL ORDER :

. The tribe claims of petitioners as belonging to 'Mennervarlu' (Scheduled Tribe) are invalidated by the common judgment.

2. Mr. Vibhute, the learned counsel for petitioners submits that, the petitioner Nos. 1 and 2 are real paternal cousins. The father of the petitioner No. 1 and the father of the petitioner No. 2 are issued with the validity certificates of Mannervarlu (S.T.) One of their real paternal cousin namely Suresh had also applied for validation of his tribe claim. Same was invalidated. He filed writ petition before this Court. This Court remanded the matter back to the Committee. Thereafter, the committee has validated the tribe claim of the real paternal uncle of petitioners namely

Suresh. Subsequently his son Nitin is also issued with the validity certificate. The learned counsel relies on the judgment of this Court in a case of Apoorva Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No. 1 and others reported in 2010(6) *Mh. L. J. 401*.

3. Mr. Tambe, the learned Assistant Government Pleader for respondents/State submits that, there are contra entries on record in the school record of the uncle of the petitioners namely Suresh and Pandurang, so also in the school record of paternal aunt namely Lata. Said aspect has been considered by the Committee in its correct perspective. The petitioners have also failed in the affinity test. The learned A. G. P. further submits that, show cause notices are issued to the validity holders relied by petitioners.

4. One of the real paternal uncle of the petitioner namely Suresh had also applied for issuance of validity certificate. His claim was initially rejected. He filed writ petition before this Court. This Court partly allowed the writ petition and set aside the judgment of the committee and remitted the matter back to the committee. After remand of the matter, the Committee has validated the tribe claim of the paternal uncle of the petitioners namely Suresh. The contra entry in the service record was also considered by the Committee while validating the tribe claim of Suresh. Reliance was placed on the pre-constitutional entry of the grandfather of the petitioners namely Namdeorao

Ambulgekar, where in the school record the tribe of was mentioned as Mannervarlu in the year 1945.

5. Be that as it may, show cause notices are issued to the validity holders relied by the petitioners.

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

7. The impugned order is quashed and set aside. The committee shall issue validity certificates to petitioners as belonging to Mannervarlu (Scheduled Tribe) immediately. The said validity shall be subject to the decision that would be taken by the committee in the proceedings which are reopened of the validity holders relied by the petitioners.

8. The writ petition as such is disposed of. No costs.

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

bsb/Jan. 21