

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

WRIT PETITION NO. 2937 OF 2019

Ragini D/o Vasant Rao Mitke .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

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

Mrs. M. A. Deshpande, Addl.G.P. for Respondent Nos. 1 to 5.

**CORAM : S. V. GANGAPURWALA AND
R. N. LADDHA, JJ.**

DATE : 28TH OCTOBER, 2021.

FINAL ORDER :

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

2. Mr. Golegaonkar, the learned counsel for the petitioner submits that, father of the petitioner is issued with the validity certificate of Mannervarlu (S.T.). The real brother of the petitioner namely Akshay Mitke is also issued with the validity certificate of Mannervarlu (S.T.). The learned counsel submits that, the school entries of the petitioner, her father and brother record tribe as Mannervarlu. The Committee has not noticed overwriting. The learned counsel further submits that, though it is submitted that, one uncle of the petitioner namely Jayram had also approached the Committee for validity. Same was

invalidated. In the year 1995 son of Jayram was issued with the validity certificate by the Committee. According to the learned counsel affinity test is not litmus test. No contra documentary evidence exists.

3. Mrs. Deshpande, the learned Additional Government Pleader submits that, initially in the year 1995 itself Jayram's claim was invalidated. Said fact was suppressed while getting validity of the other paternal relatives. The school entry of Rameshwar Marotirao is interpolated. Mannerwar has been scored and in its place Mannervarlu has been inserted. Vigilance has considered said aspect. The petitioner has also failed in the affinity test.

4. It is a fact that, the father and brother of the petitioner are issued with the validity certificates by the Committee. The school record of the petitioner, her father and brother record tribe as Mannervarlu. The Committee has found the entry of Mannervarlu to be overwritten over the tribe Mannerwar in the school record of Rameshwar. However, we do not find date of that entry.

5. The son of Jayram has been issued with the validity certificate by the Committee itself. The affinity test is not litmus test as observed by the Apex Court in a case of **Anand Vs. State of Maharashtra** reported in (2012) 1 SCC 123.

6. Show cause notices are issued to the father of the petitioner and brother of the petitioner. In the light of that, we pass the following order.

7. The impugned judgment of the Committee is quashed and set aside. The Committee shall issue validity certificate to the petitioner as belonging to “Mannervarlu” (Scheduled Tribe) immediately. The said certificate would be subject to the decision taken by the Committee in the proceedings reopened by the Committee and relied by the petitioner.

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

[R. N. LADDHA, J.]

[S. V. GANGAPURWALA, J.]

bsb/Oct.21