

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

WRIT PETITION NO.8737 OF 2019

Prajakta D/o Shankar Handeshwar,
Age-20 years, Occu:Education,
R/o-Tamloor, Tq-Degloor,
Dist-Nanded.

...PETITIONER

VERSUS

- 1) The State of Maharashtra,
Through its Secretary,
Higher and Technical Education Department,
Mantralaya, Mumbai,
- 2) The Scheduled Tribe Caste Certificate
Verification Committee, Aurangabad,
Through its Member Secretary,
Aurangabad,
- 3) The Director,
School of Pharmacy,
Swami Ramanand Teerth Marathwada
University Nanded,
Tq. And Dist-Nanded,
- 4) The Registrar,
Swami Ramanand Teerth Marathwada
University, Nanded,
Tq. And Dist-Nanded.

...RESPONDENTS

...

Mr.Sunil M. Vibhute Advocate for Petitioner.
Ms.Geeta L. Deshpande, A.G.P. for Respondents No. 1 and 2.
Respondents No. 3 and 4 served.

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AND

WRIT PETITION NO.8759 OF 2019

Priyanka D/o Shankar Handeshwar,
Age-19 years, Occu:Education,
R/o-Tamloor, Tq-Degloor,
Dist-Nanded.

...PETITIONER

VERSUS

- 1) The State of Maharashtra,
Through its Secretary,
Higher and Technical Education Department,
Mantralaya, Mumbai,
- 2) The Scheduled Tribe Caste Certificate
Verification Committee, Aurangabad,
Through its Member Secretary,
Aurangabad,
- 3) The Associate Dean,
College of Agriculture,
Georai Tanda, Paithan Road,
Tq. and Dist-Aurangabad,
- 4) The Registrar,
Vasantrao Naik Marathwada
Krishi Vidyapeeth, Parbhani,
Tq. And Dist-Parbhani,
- 5) The Principal,
Nanded Education Society's,
Science College, Nanded,
Tq. And Dist-Nanded.

...RESPONDENTS

...
Mr.Sunil M. Vibhute Advocate for Petitioner.
Mrs.Geeta L. Deshpande, A.G.P. for Respondents No.1 and 2.
Mr.S.G. Sangle Advocate for Respondent No. 4.
Respondents No. 3 and 5 served.
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**CORAM: SUNIL P. DESHMUKH AND
ABHAY AHUJA, JJ.**

DATE : 17th FEBRUARY, 2021

ORAL JUDGMENT [PER SUNIL P. DESHMUKH, J.] :

1. Rule. Rule made returnable forthwith. Heard learned counsel for the appearing parties finally, by consent.
2. The petitions are moved challenging decision of respondent No. 2 – scheduled tribe caste certificate verification committee, Aurangabad dated 5th July 2019, invalidating petitioners’ claim to be belonging to “*Mannerwarlu*”, scheduled tribe.
3. Learned counsel appearing on behalf of the petitioners submits that when relationship is not disputed and there are validity holders from the genealogy who are closely related to petitioners, negation of the petitioners’ claim is improper. He further purports to support his submissions with reference to judgment and order in the case of “*Apoorva Vinay Nichale V/s*

Divisional Caste Certificate Scrutiny Committee No.1 and Others” reported in 2010 (6) Mh.L.J. 401 and an order passed by this court in writ petition No. 8277 of 2020 in the case of “*Prachi d/o Gokul Thakur V/s The State of Maharashtra and Another*” dated 18th December, 2020.

4. Learned AGP submits that while the claims of petitioners would not be sustainable having regard to doubtful record and further, when the tests of area restriction and affinity having not been passed by petitioners, the decision by committee would not be liable to be faulted with. There are satisfactory reasons being given for negating the claim of petitioners.

5. It appears that validity certificates relied on by the petitioners have not weighed with the scrutiny committee, suspecting interpolation in record in their respect. It has also been referred to that during vigilance in the case of Sunil Laxman, cousin uncle of petitioners’, this had not been brought forth. The committee also suspects interpolation in school record of Sayanna - uncle of petitioners’ father, while Sunil’s father Laxman had said that Sayanna been illiterate. The committee further appears to have referred to that cases of validity to aforesaid relations of the petitioners are being reopened by

issuing show-cause notices. The committee has also observed that the petitioners could not be said to have passed the affinity test as well as there being area restriction.

6. Having regard to above, the documents on which reliance has been placed by the petitioners though appear to have been referred to, the committee considered the same not reliable. It appears that though the committee purports to decline the claim with reference to documents and the validity certificates to near relatives, and though it has been referred to that with regard to interpolation there had been inquiry instituted in 2002, yet its outcome has neither been referred to during the scrutiny of the claims nor as of now. It is not the case that the documents relied upon on behalf of the petitioners, were not taken into account during validity claims of close relatives, referred to above. It surfaces that in Sunil Laxman's case vigilance had taken place and then record, it appears, had not been suspected.

7. There is no dispute on the genealogy shown by the petitioners before the scrutiny committee. It is also not disputed that petitioners' father Shankar and their uncle Vijay have been issued validity certificates being of "*Mannerwarlu*", scheduled

tribe in 2011 and 2008, respectively. Apart from aforesaid, from the genealogy, petitioners' cousin uncle Sunil as well as aunt Rekha (said uncle's sister) and Bharat - another cousin uncle, have been issued validity certificates.

8. There is also no dispute on that as on the date, validity issued to father and aforesaid relatives of the petitioners are intact. *Albeit*, it is being contended that their cases are sought to be reopened, however, as yet nothing in substance has been placed before us beyond the statement.

9. In the circumstances, it would be appropriate that we follow the course charted by various decision of division bench viz., writ petition No. 5641 of 2020 (*Kum. Maseera Parvin d/o Mohd. Asfaq Shaikh and Another V/s the State of Maharashtra and Others*), writ petition No. 9056 of 2019 (*Ganesh s/o Sudhakar Bodhgire V/s The State of Maharashtra*) dated 21st August, 2019, and a judgment of the Supreme Court in the case of "*Raju Ramsing Vasave V/s Mahesh Deorao Bhivapurkar and Others*" reported in (2008) 9 SCC 54.

10. It has been referred to that if proceedings for cancellation of tribe validity holders are answered against the certificate

holders, it would be open for the committee to issue show cause notice to petitioners, as to why validity certificate granted to them should not be cancelled and keeping it open for the committee to take those proceedings to its logical end. The decisions even refer to that certificate issued to the petitioner, would be subject to outcome of proceedings for cancellation of validity issued in favour of blood relatives.

11. Having regard to decisions, facts and circumstances and forgoing discussion, it appears to be expedient to set aside the impugned order and direct issuance of validity certificates to petitioners, subject to decision in re-opened cases.

12. Impugned order dated 5th July, 2019 passed by respondent No. 2 - Scheduled Tribe Caste Certificate Verification Committee, Aurangabad is set aside. Respondent No. 2 Committee shall forthwith issue validity certificates to the petitioners as belonging to "*Mannerwarlu*" scheduled tribe. The certificates would be subject to decision that would be taken by the committee in the proceedings reopened of the validity holders relied upon by the petitioners. In case, validity certificates issued to the validity holders relied upon by the petitioners are cancelled, then the

petitioners would not be in a position to claim any equities and it would be open for the committee, if the committee is of the view that validity certificates obtained by the validity holders are by playing fraud, then the committee may resort to action against the petitioners as would be available in law.

13. Rule is made absolute accordingly. Writ petitions are disposed of.

14. Needless to refer to that this order shall not influence proceedings reopened by respondent No. 2 committee.

[ABHAY AHUJA, J.]

[SUNIL P. DESHMUKH, J.]

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