

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

WRIT PETITION NO.8207 OF 2020

Mrunmayi D/o Sanjay Kudmulwar,
Age : 18 years, Occu. Education,
R/o. Kundalwadi, Tq. Biloli,
District Nanded.

... **Petitioner**

Versus

1. The State of Maharashtra,
Through its Secretary,
Medical Education and Drugs Department,
Mantralaya, Mumbai.
2. The Scheduled Tribe Caste Certificate
Verification Committee, Aurangabad,
Through its Dy. Director (R),
Aurangabad, District. Aurangabad,
Near CIDCO Bus Stand, Aurangabad.
3. The Commissioner & Competent Authority
(deleted).

... **Respondents**

...

Advocate for Petitioner : Mr. S. M. Vibhute.
AGP for Respondents-State : Mr. S. R. Yadav.

...

**CORAM : RAVINDRA V. GHUGE AND
S. G. MEHARE, JJ.**

DATE : 07.12.2021

ORAL JUDGMENT : (Per Ravindra V. Ghuge, J.) :-

1. By this petition, the petitioner has put forth prayer
clause "A" to "E" as under :

"A) This Writ petition may kindly be allowed and petitioner may kindly be held and declare as belongs to "Mannervarlu", Scheduled Tribe."

"B) The impugned Judgment and order dated 24/11/2020 passed by the respondent No.2 committee, invalidating the Tribe Claim of the petitioner of "Mannervarlu" Schedule Tribe, may kindly be quashed and set aside and respondent No.2 committee may kindly be directed to issue Tribe Validity Certificate of "Mannervarlu" Tribe to the petitioner."

"C) Pending hearing and final disposal of this petition, the impugned Judgment and order dated 24/11/2020 passed by the respondent No.2 committee, invalidating the Tribe Claim of the petitioner of "Mannervarlu" Schedule Tribe, may kindly be stayed."

"D) The respondent No.3 may kindly be directed to consider the petitioner from Schedule Tribe category in entire admission process of NEET-UG-2020 without insisting for Tribe Validity Certificate of the petitioner, subject to the adjudication of Tribe Claim of the petitioner by this Hon'ble Court in this petition."

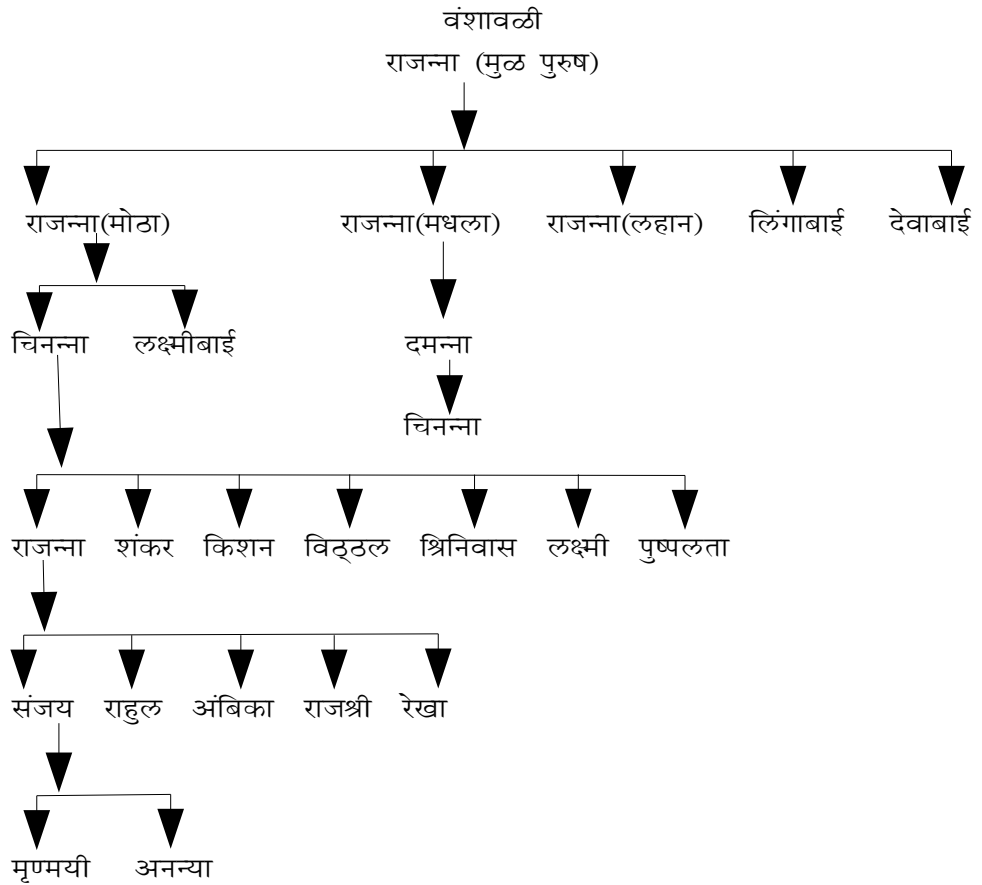
"E) Pending hearing and final disposal of this petition, the respondent No.3 may kindly be directed to consider the petitioner from Schedule Tribe category in entire admission process of NEET-UG-2020 without insisting for Tribe Validity Certificate of the petitioner, subject to the adjudication of Tribe Claim of the petitioner by this Hon'ble Court in this petition."

2. The learned advocate for the petitioner submits on instructions that the petitioner is not pressing her admission to NEET-UG-2020 and prayer clause "D" and "E" are redundant.

The petitioner, therefore, prays on instructions that respondent No.3 be deleted from the proceeding. Deletion is permitted at the risk of the petitioner.

3. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

4. Before we advert to the details of the submissions of the litigating parties, it would be appropriate to reproduce the family tree as tendered by the father of the petitioner on an affidavit, as follows :



5. The brothers appearing in the family tree, namely Sanjay and Rahul are the father and real uncle of the petitioner, respectively. Ambika, Rajashree and Rekha are the biological sisters of the petitioner's father. Barring Rajashree, the remaining four including the father of the petitioner, have acquired validity certificates as belonging to the "Mannervarlu" Scheduled Tribe. Based on such entries, the petitioner preferred her application for seeking such a validity certificate.

6. It needs to be noted that the caste Munnervar, Munnurvar, Munnur, Telgu Munnur, Munnurvar Telgu and Munnarvad, are included in the Special Backward Category (S.B.C.). Mannervarlu is included in the Scheduled Tribes Category. By presidential order of 1976, Mannervarlu caste came to be included in the list of Scheduled Tribes.

7. The great grandfather of the petitioner is said to be belonging to the 'Manervarlu' (there is no such caste as 'Manervarlu' as it is 'Mannervarlu'). His school extract acquired by the petitioner on 24.10.2020, was placed before the Committee. The petitioner also relied upon the validity

certificates of Sanjay, Rahul, Ambika and Rekha. Based on such validities, the petitioner sought acceptance of her claim.

8. The record reveals that Pushpalata Chinanna, daughter of Chinanna Rajanna and real aunt (father's sister) of Sanjay (petitioner's father) had an entry of her caste as 'Munnurvar' in her school record. The said entry was changed to Mannervarlu under the instructions of the Education Officer, Zilla Parishad, Nanded bearing order No.72785/86. All the validity holders mentioned above have based their claims on their school records indicating that they belong to the 'Mannervarlu' Tribe.

9. The impugned order dated 24.11.2020 rejecting the claim of the petitioner indicates that the Vigilance Cell carried out an investigation and noticed on the basis of the record that the cousin grandfather of the petitioner, Shrinivas Chinanna had his caste recorded as 'Munurvar'. The cousin grand aunt, Pushpalata Chinanna also carried the caste Munurvad, which was lateron changed to Munurvar. Pushpalata carried another entry indicating her caste as 'Munurvar', subsequently changed to 'Mannervarlu'. The cousin grandfather of the petitioner, Laxman Buchhanna belongs to 'Munurvar'. The cousin

grandfather Gangadhar Chinanna belongs to 'Munurvad'. The father of the petitioner Sanjay has a certificate indicating his caste as 'Manervarlu'. His sisters namely Ambika Rajanna, Rajashree Rajanna and Rekha Rajanna and uncle Rahul Rajanna carry the caste 'Mannervarlu'.

10. The Committee found the entries of Chinanna, cousin grandfather, Shrinivas Chinanna as 'Mannervarlu' and Pushpa Chinanna as 'Munurvar-Mannervarlu', highly suspicious. Even the entry of grandfather Rajanna Chinanna carries 'Munurvar'. All such entries from the grandfather upto the great grandfather, are pre 1972 entries and therefore, they have a great probative value.

11. It is noteworthy that the uncle of the petitioner Rahul relied on maternal side entries and obtained a tribe validity certificate. From the petitioner's father's lineage, Rahul was the first person, who obtained a validity. However, he suppressed from the Committee that his biological uncle Vitthal Chinanna had suffered a rejection of his validity claim and the Division Bench of this Court had dismissed his Writ Petition No.118 of 1988 by judgment dated 19.06.2003. This rejection

was the first verdict on the claim for validity made for the first time in Vitthal's generation i.e. amongst his siblings namely Rajanna, Shankar, Kishan, Shrinivas, Laxmi and Pushpalata.

12. Vitthal approached this Court by filing Writ Petition No.118 of 1988. The conclusions drawn by this Court vide judgment dated 19.06.2003 in Writ Petition No.118 of 1988 filed by Vitthal Chinanna, are found from paragraph Nos.3 and 4 as under :

"3. It is required to be noted that the "Mannerwarlu" caste came to be included in the list of Scheduled Tribes in the Presidential Order of 1976. These documents, which were relied upon by the petitioner by way of certificates were all issued after 1978. The scrutiny committee rightly proceeded on the basis that the documents which were issued prior to the Presidential Order of 1976 had more probative value and it, therefore, based its findings against the Petitioner on the admission registers."

"4. These admission registeres were placed before us and we have noticed that the Primary Girls School at Kundalwadi maintained an admission register. At serial No.96 in the said register the name of the Petitioner's brother Ishan is entered. He was admitted in the school on 30th August, 1962 and his caste was shown as "Munurwad". On page 28 and at serial No.139 of the said register the Petitioner's name has been entered which shows that he was admitted in the said school on 1st July, 1963 and his caste was shown as "Munurwad". The Secondary School at Kundalwadi, where the petitioner's brother Kishan was

admitted on 18th July, 1969, his name appeared in the admission register at serial No.1222 and his caste was shown as "Munurwar". However, the same appears to have been subsequently corrected as "Mannerwarlu". In the said register the petitioner's name appears at serial No.1409 and he was admitted in the 6th standard on 7th July, 1970. His caste was shown as "Munurwar". It is, thus, obvious that the Petitioner as well as his brother were shown to belong to the Munerwad / Munerwar caste when they were admitted in the primary as well as secondary schools and these admissions were prior to the Presidential Order of 1976. The caste of the Petitioner's brother was subsequently altered in the secondary shcool register on the basis of the caste certificate issued after he had left the school. Till the petitioner as well as his brother completed the primary and secondary education they were shown to belong to "Munurwar/Munurwad" caste. The Government of Maharashtra, by Government Resolution dated 15th of June, 1995, has recognizd "Munnerwad/Munnerwar" as Special Backward Class and thus it is a different caste from the "Mannerwarlu, Scheduled Tribe". These school extracts, which came before the respondent No.5 committee in the course of home inquiry, were rightly considered and the petitioner's tribes claim was turned down. The committee considered all the documents submitted by the Petitioner and recorded a finding that after the Presidential Order of 1976 was issued the Petitioner and his brother obtained caste certificates as belonging to the "Mannerwarlu" Scheduled Tribe and these certificates were issued in a very casual manner by the concerned officers. These certificates by themselves could not prove the social status of the petitioner and the school admission register extract, which was placed before the committee, was the primary evidence which indicated that the petitioner belongs to the Munurwar caste. The fact finding exercise done by the committee on the basis of

such evidence cannot be interfered with unless it is held to be perverse. We have no hesitation to hold that the committee did not commit any error in appreciating the evidence so placed before it and considering the admission registers of the primary as well as secondary schools at Kundalwadi and thus there is no case made out to interfere with the view taken by the committee and confirmed by the lower Appellate Authority, by exercising our supervisory powers under Article 227 of the Constitution."

13. Vitthal did not approach the Hon'ble Apex Court for challenging the above said judgment. As the petitioner realized that this judgment is likely to come in her way, she approached the Hon'ble Apex Court in Special Leave Petition (Civil) Diary No.6485 of 2021, which was dismissed on the ground of delay vide order dated 19.07.2021 and this Court was called upon to decide the present petition on it's merits.

14. The learned AGP has placed before us the Record and Proceedings. The entries produced before the Committee by the Vigilance Cell indicate Munurvar as the caste of Rajanna Chinanna. The entry of Vitthal Chinanna also shows as 'Munurvar' with the Marathi alphabet 'ळ' appearing to be have added later. 'Munurvarlu' does not exist in law. Vitthal has already suffered rejection at the hands of this Court. Yet another document indicates the caste of Rajanna Chinanna as

‘Munurvar’. The entry of Pushpalata apparently is an interpolation encircling the originally written caste ‘Munurvar’ and by writing the caste ‘Mannervarlu’ in front of such entry. As such, the entry of Chinanna Damanna whose grandfather Rajanna (elder), was seriously doubted by the Committee. The original male of the family Rajanna had three sons namely Rajanna (eldest), Rajanna (elder-middle) and Rajanna (youngest) along with two daughters namely Lingabai and Devabai. Some of the persons in relation to these family members (*Bhavki as known in marathi*) like Snehalata Dharampuri belongs to Munurvar and so also Shakuntala Dharmaji.

15. In view of the above, we find that the four persons namely Sanjay, Rahul, Ambika and Rekha have obtained their validity certificates by suppressing the decision in the case of Vitthal. Even the judgment of this Court dated 19.06.2003 was suppressed. Rahul got a validity first, based on the certificates of the relatives from the maternal side. Based on his validity, Sanjay, Ambika and Rekha also got validities.

16. The petitioner relies upon the decision delivered by this Court in *Apoorva d/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No.1, Nagpur, 2010 (6) Mh.L.J. 401 : AIR 2010 (6) BOM. R. 21*, wherein this Court has held that, when blood relatives have been granted validity certificates, the Committee should not insist upon fresh evidence as a blood related candidate need not establish the case independently. However, in our view, as Rahul has obtained his validity certificate on the basis of the maternal relatives and as his brother Sanjay and two sisters Ambika and Rekha have acquired validity certificates on the strength of Rahul's validity, all of whom suppressed the rejection of the claim of Vitthal, cannot be the foundation for granting a validity certificate to the petitioner.

17. Bipinkumar, S/o Vitthal Chinanna has also acquired validity certificate on 30.03.2009 by suppressing the rejection of his father's (Vitthal) claim and by relying upon the certificates received by Sanjay, Rahul, Ambika and Rekha. All these cases, therefore, need to be re-investigated to expose the fraud, if any.

18. In view of the above, we are unable to accept the request of the petitioner that a provisional certificate be issued so that the petitioner's admission could be processed. We have two reasons for declining this request. Firstly, that the validity certificates in favour of her father, uncles and two aunts are under a serious cloud of doubt and secondly, that the claim of Vitthal has been rejected. Granting a provisional validity certificate to the petitioner is likely to deprive a genuine candidate belonging to the said category, of his admission.

19. Considering the above, we are of the view that as the document regarding Chinanna Damanna, who is from the branch of Rajanna (elder), Rajanna (the original male of the family), is doubtful, the same will have to be gone into by the Scrutiny Committee. So also, the validity certificates issued in favour of Sanjay, Rahul, Ambika, Rekha and Bipinkumar are required to be reinvestigated, we do not find that the petitioner has established her claim before us. Nevertheless, it would be appropriate to remit her file to the Scrutiny Committee for a fresh hearing and for verification of documents as well as the genuineness of the document of Chinanna Damanna. It would be appropriate to grant one more opportunity to the petitioner.

20. In view of the above, this petition is partly allowed in the following terms :

- (a) The impugned judgment dated 24.11.2020 is set aside and the case of the petitioner is remitted back to the Office of Respondent No.2 - Committee at Aurangabad.
- (b) The petitioner shall appear before the Committee on 03.01.2022 at 2.00 p.m. and shall abide by the further dates of hearing in the matter.
- (c) All the documents produced by the petitioner would be independently considered by the Committee and the school extract of Chinanna Damanna bearing admission No.107/848, copy of which was obtained by the petitioner on 24.10.2020, shall be subjected to appropriate scrutiny in order to assess its strength in supporting or demolishing the case of the petitioner.
- (d) The Committee shall re open the cases of Sanjay, Rahul, Ambika, Rekha and Bipinkumar to scrutinize as to whether they had played any fraud on the Committee for obtaining the validity certificate.

- (e) The Committee shall considered the case of the petitioner along with the above stated five candidates.
- (f) We expect the Committee to complete this entire exercise by 15.05.2022. A result in the case of the petitioner as well as her father, uncle and two aunts' cases would be delivered, as expeditiously as possible and preferably, on or before 31.06.2022.

21. Rule is made partly absolute in the above terms.

22. We find it appropriate to record our appreciation for the admirable assistance extended to the Court by the learned AGP Mr. S. R. Yadav.

(S. G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)

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vmk/-