

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

905 WRIT PETITION NO.8340 OF 2020

**AKASH NABAJI NALMELWAR
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

...
Advocate for Petitioner : Mr. M. S. Deshmukh h/f
Mr. Chandrakant R Thorat.
AGP for Respondents-State : Mr. P S. Patil.
...

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

DATE : 13.10.2021

PER COURT :-

1. The caste claim of the petitioner as belonging to the "Mannervarlu" Scheduled Tribe has been invalidated. The caste claim of his first cousin brother Aniket Nagnath Nalmelwar has been rejected by the Scrutiny Committee under a common judgment dated 27.11.2020. Aniket Nagnath, upon his Mannervarlu Scheduled Tribe Claim having been invalidated, had approached this Court in Writ Petition No.8163 of 2020. This Court, by order dated 11.12.2020, noted that the claim of the father of Aniket has been validated.

Considering the situation, this Court disposed off Writ Petition No.8163 of 2020 by passing the following order :

"7. The impugned order is quashed and set aside. The committee shall issue validity certificate to the petitioner of Mannervarlu, Scheduled Tribe."

"8. The said validity certificate shall be subject to the decision that would be taken by the committee in the cases re-opened of the validity holders relied by the petitioner."

2. The petitioner has put forth prayer clauses "A" and "B" as under :

"A. By issuing Writ of Certiorari or any other appropriate writ or direction in the like nature, be please to quashed and set aside the Judgment and Order dated 27.11.2020, passed by the Respondent No.2 Scheduled Tribe Certificate Scrutiny Committee, Aurangabad, Exhibit-A."

"B. By issuing Writ of Mandamus or any other appropriate writ or direction in the like nature, be please to direct the respondent No.2 Scheduled Tribe Certificate Scrutiny Committee, Aurangabad to issue Tribe Validity Certificate in favour of the petitioner as belonging to "Mannervarlu" Scheduled Tribe, forthwith."

3. We have perused the family tree placed before us at page No.91. Nabaji Poshatti Nalmelwar is the biological brother of Nagnath Poshatti Nalmelwar. Aniket is the son of Nagnath and

the petitioner herein namely Aakash is the son of Nabaji.

4. In view of the above, we deem it appropriate to pass a similar order as has been passed in the case of Aniket Nagnath, on 11.12.2020.

5. The petitioner has placed before us an affidavit dated 13.10.2021 along with a copy of the admit card indicating that he is to appear for the M.P. S.C. examination. The affidavit and the accompanying documents (9 pages) are taken on record and marked as “X” for identification. The petitioner has sworn on oath that this order would not create any equities in his favour in the event of the validity certificate issued to his father or his uncle or his biological cousin brother Aniket are set aside and that becomes a basis for the quashing of the conditional validity certificate that we are granting today.

6. We, therefore, record that the petitioner, subject to his legal rights, would be precluded from claiming any equities in his favour or in his job / employment, in the event of his Mannervarlu Tribe validity certificate being quashed and set aside. The law laid down by the Apex Court in ***Chairman and Managing Director, Food Corporation of India and others Vs.***

Jagdish Balaram Bahira and others (2017) 8 SCC 670 would also apply to his case. If, in the event of such a situation, the petitioner prays for continuance in employment, such request shall be turned down by the Court or by the employer, as the case may be.

7. In view of the above, this petition is partly allowed. The impugned order dated 27.11.2020 passed by respondent No.2 – Committee shall stand quash and set aside and a validity certificate indicating that the petitioner belongs to the Mannervarlu Scheduled Tribe, shall be issued to him within fifteen (15) days. Needless to state, such grant of validity would be subject to the following conditions :

- (a) The undertaking affidavit filed by the petitioner 'X' shall be made strictly applicable.
- (b) The law laid down by the Hon'ble Apex Court in *Chairman and Managing Director, Food Corporation of India and others Vs. Jagdish Balaram Bahira and others* or any other judgment if delivered in future which takes away all the benefits of a candidate

including service benefits that he may have earned on the basis of a reservation in the event of quashing of his validity claim, will apply to his case.

- (c) The validity certificate granted by this Court, would be subject to the decision that may be taken by the Committee in cases of the petitioner's relatives, wherein validity certificates have been granted and such cases have been re-opened.
- (d) This order has been passed keeping in view the peculiar case of urgency shown by the petitioner having regard to his M.P. S.C. examination.

(S. G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)

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vmk/-