

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

**88 WRIT PETITION NO. 9136 OF 2020**

**VIDHI VENKAT THAKKE  
VERSUS  
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for Petitioner: Mr. Vibhute Sunil M.  
AGP for Respondents No. 1 & 2: Mr. P. S. Patil  
Advocate for Respondent No. 3: Mr. M. D. Narwadkar

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

**DATE: 04<sup>th</sup> JANUARY, 2021**

**PER COURT:**

1. The tribe claim of the petitioner as Mannervarlu, Scheduled Tribe is invalidated.

2. The learned Counsel submits that father of the petitioner is issued with the validity certificate of the Mannervarlu, Scheduled Tribe after conducting vigilance. Two sons and two daughters of the real uncle of the petitioner's namely Hanumant and Shankar are issued with the validity certificate of Mannervarlu, Scheduled Tribe. The learned Counsel for the petitioner relies on the judgment of this Court in case of

**Apoorva Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No. 1 and others** reported in 2010 (6) Mh. L. J. 401. The learned Counsel submits that affinity test is not the litmus test. The learned Counsel relies on the judgment of the Apex Court in case of **Anand Vs. Committee for Scrutiny and Verification of Tribe Claims and others** reported in (2012) 1 SCC 113.

3. The learned A.G.P. submits that the father has been issued with the validity certificate, however the contra entries found out by the committee in the present matter were not brought before the committee while granting validity to the father of the petitioner. The other paternal cousins of the petitioner are granted validity on the basis of the validity given to the father. As contra entries were not brought on record while granting validity to the father of the petitioner, the validity granted to the father of the petitioner is of no avail. The petitioner has failed in the affinity test also. Show cause notice has been issued to the father of the

petitioner as to why the validity certificate should not be cancelled.

4. We have considered the submissions canvassed by the learned Counsel for respective parties.

5. It is not disputed that the father of the petitioner is issued with the validity certificate after conducting vigilance. Four paternal cousins of the petitioner i.e. the sons and daughters of the real uncle of the petitioner are also issued with the validity certificate probably on the basis of the validity issued to the father of the petitioner. The affinity test is not the litmus test as held by the Apex Court in case of **Anand Vs. Committee for Scrutiny and Verification of Tribe Claims and others** (*supra*). It appears that some of the documents in the present case were subject matter of consideration before the committee while granting validity to the father of the petitioner. In case of father of the petitioner show cause notice is also issued to the father of the petitioner.

6. In light of that, we pass 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. The said certificate shall be issued subject to the decision that would be taken by the committee in the proceedings re-opened of the validity holders relied by the petitioner.

8. Writ Petition is accordingly disposed of. No costs.

[SHRIKANT D. KULKARNI, J.]

[S. V. GANGAPURWALA, J.]

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