

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

86 WRIT PETITION NO. 8486 OF 2020

**YASH SHANKAR BALSHETWAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for Petitioner: Mr. S. M. Vibhute h/f.
Mr. Ghanshyam K Chinchole
AGP for Respondents No. 1 & 2: Mr. S. K. Tambe
Advocate for Respondent No. 3: Mr. S. G. Karlekar

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

DATE: 04th JANUARY, 2021

PER COURT:

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

2. Mr. Vibhute, the learned Counsel submits that father of the petitioner is issued with the validity certificate of Mannervarlu, Scheduled Tribe by the appellate authority. Real paternal uncle of the petitioner namely Shivaji S/o Pandurang is issued with the validity certificate. The another uncle of the petitioner namely Ashok S/o. Vitthal is issued with the validity certificate. The cousin aunt of the petitioner

namely Sangeeta D/o. Ananda is issued with the validity certificate of Mannervarlu, Scheduled Tribe. One paternal cousin namely Swaraj S/o. Ashokrao had also applied for validity certificate, the same was negatived. He filed writ petition bearing no. 9202 of 2019 before the Principal Seat. The Division Bench under its order dated August 21, 2019 allowed the said writ petition and directed the committee to issue conditional validity to him. The documents referred to in the judgment by the committee in the petitioner's case and the case of the Swaraj are almost same.

3. The learned A.G.P. submits that the petitioner has failed in the affinity test, there are contra entries on record which has been considered by the committee. The committee has considered the entire documents on record threadbare and thereby has rightly negatived the claim of the petitioner.

4. We have perused the judgment in case of the petitioner and also in case of Swaraj S/o. Ashokrao; majority of the documents before the committee in both the cases were same. It does not appear that the relationship of the petitioner and Swaraj is disputed. Swaraj appears to be the paternal cousin of the petitioner. The Division Bench of this Court at the Principal Seat under order dated August 21, 2019 allowed the writ petition no. 9202 of 2019 filed by Swaraj S/o. Ashokrao and observed as under-

"6. The learned Government Pleader submits that sine some interpolation is noticed in the school record of Ashok Vithalrao Balshetwad the Committee has issued a show cause notice to Ashok Vithalrao Balshetwad. We find that the Committee has not recorded specific findings as regard possibility of some interpolation. Be that as it may, we have noticed that Ashok Vithalrao Balshetwad has already been granted caste validity certificate. Thus in our considered view, the reason assigned by the Committee for rejection of the petitioner's claim cannot be sustained as it runs contrary to the view taken by the Division Bench of this Court in the case of Apoorva Vinay Nichale (supra).

7. In the circumstances, in the light of the law laid down by the judgments in Apoorva Nichale, Anand and Raju Ramsing Vasave (supra), the petitioner is entitled to be granted caste validity certificate forthwith. However, the issuance of the certificate

shall be subject to the outcome of the show cause notice which has been issued against Ashok Vithalrao Balshetwad by the Committee as the caste validity certificate issued to Ashok Vithalrao Balshetwad is found to be based on interpolation / adverse entries."

5. For the reasons recorded in the judgment dated August 21, 2019 in Writ Petition No. 9202 of 2019 filed by Swaraj S/o. Ashokrao, we follow the same course and pass the following order.

6. The impugned order is quashed and set aside.

7. 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 proceedings re-opened of the validity holders relied by the petitioner.

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

[SHRIKANT D. KULKARNI, J.]
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[S. V. GANGAPURWALA, J.]