

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

997 WRIT PETITION NO.14555 OF 2021

PRATIK MADHUKAR UNHALE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS PRINCIPAL SECRETARY
AND OTHERS

...
Advocate for Petitioner : Ms. Pradnya Talekar h/f
Talekar And Associates
AGP for Respondents-State : Mr.S.G. Karlekar

...
CORAM : S. V. GANGAPURWALA AND
S. G. DIGE, JJ.

DATE : 22nd DECEMBER, 2021

PER COURT :-

1. The caste claim of the petitioner as 'Mannervarlu' Scheduled Tribe is invalidated.
2. The learned counsel for the petitioner submits that father of the petitioner, namely, Madhukar, real sister of the petitioner, Pallavi, uncle of the petitioner, Subhash are issued with validity certificates of 'Mannervarlu' Scheduled Tribe. The cousin uncle of the petitioner, namely, Nareshkumar Ramchandra Unhale and cousin paternal aunt of the petitioner, namely, Jyoti Unhale are also issued with validity certificates of 'Mannervarlu' Scheduled tribe. There are other validities issued to the different relatives.
3. The learned counsel for petitioner submits that birth entry in respect of cousin grandfather, namely, Ramchandra Narsinga is of the year 1940 and his caste is recorded as 'Mannervarlu.' The learned counsel submits that some of the contra evidence were also subject matter of consideration. The learned counsel relies upon the judgment of the

Division Bench of this Court in the case of *Apporva Vinay Nichale Versus Divisional Caste Certificate Scurtiny Committee No.1 and others* reported in *2010 (6) Mh.L.J. 401*.

4. The learned AGP for respondent submits that there are contra entries on record. i.e. School record of Kerba Maroti cousin grandfather and another cousin grandfather, cousin uncle Ashok and Aunt Sunanda. The said contra entries were not considered by the Committee while issuing validity certificates to the father, sister and other paternal cousins of the petitioner. The document of the year 1940 i.e. birth date of Ramachandra is found suspicious by the Committee. All the aspects of the matter are considered by the Committee and rightly invalidated the claim of the petitioner though relatives have been issued with validity. In addition, the petitioner failed in the affinity test.

5. It is not disputed that father of the petitioner, namely, Madhukar, real sister of the petitioner Pallavi and real paternal uncle Subhash and real paternal Aunt Shashikala are issued with validity certificates of 'Mannervarlu' Scheduled Tribe. The cousin paternal uncle of the petitioner, namely, Nareshkumar and Aunt Jyoti are also issued with validity certificates. In case Ramchandra birth certificate of 1940 was considered, it appears that there are contra entries on record. Show cause notices are issued to the validity holders relied by the petitioner.

6. Considering the above and oldest document being considered while issuing validity to Ramchandra, we pass the following order.

ORDER

- (i) The Committee shall issue validity certificate to the petitioner of "Mannervarlu" Scheduled Tribe.

(ii) In case, show cause notices are issued to the validity holders relied by the petitioner, the present validity certificate shall be subject to the decision that would be taken in the re-opened proceedings.

(iii) In view of the present order, the College may not refuse to give transfer certificate only on the ground that caste claim of the petitioner was invalidated.

7. Writ petition is disposed of. No costs.

(S.G. DIGE)
JUDGE

(S.V. GANGAPURWALA)
JUDGE

mtk