IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2008 OF 2022

Vitthal Maroti Bainwad .. Petitioner

Versus

State Common Entrance Test Cell,
Through its Commissioner &
Competent Authority and another .. Respondents

Mr. Mahesh S. Deshmukh, Advocate h/f Mr. Umesh B. Gite, Advocate for the Petitioner.
Mr. A. S. Shinde, AGP for Respondents-State.

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

DATED : 10th FEBRUARY 2022.

PER COURT:-

. The tribe claim of the petitioner as belonging to “Mannervarlu” (Scheduled Tribe) is invalidated. The same was also invalidated initially. The petitioner filed Writ Petition No. 1102 of 2022. Under order dated 31.01.2022 this Court remanded the matter to the committee so as to enable the petitioner to prove his relationship with the validity holder namely Vijayalaxmi Vyankatrao Bainwad. After remand, the claim of the petitioner is again invalidated.

2. Mr. Deshmukh, learned counsel for the petitioner submits that after remand of the matter the petitioner has proved the relationship

with Vijayalaxmi d/o Vyankatrao Bainwad. The committee has also accepted the same. The learned counsel submits that in case of Vijayalaxmi the old record of Bainwad Vyankatrao Kalba was also subject matter of consideration. The said document is of the year 1962 and the tribe is recorded as “Mannervarlu”. The committee is relying upon another document of Vyankati Kalba Bainwad. The date of birth of the said Vyankati is referred to as 1956. In that case also tribe is recorded as “Mannervarlu”. In all documents of Vyankati Kalba his tribe is recorded as “Mannervarlu”. The document of Ananda Mohnaji is referred to, but at one place the date of birth of Ananda Mohnaji is not recorded and on another place the date of birth is recorded as 1952. He is not the same person. According to the learned counsel, other record of the paternal relatives of the petitioner consistently records tribe as “Mannervarlu”. The committee has wrongly considered that the school - Zilla Parishad High School, Vajirabad was only from 5th to 10th standard. The Zilla Parishad school is a Primary School and i.e. from 1st to 7th standard. The committee while validating the tribe claim of Vijayalaxmi verified the said document and the said document was also considered while issuing validity to Vijayalaxmi.

3. We asked the learned A.G.P. as to whether the petitioner proved his relationship with Vijayalaxmi after remand of the matter. The

learned A.G.P. after going through the statements accepts the fact that Vijayalaxmi is the paternal relative of the petitioner. The learned A.G.P. further submits that the document submitted by the petitioner of Bainwad Vyankatrao is not the document issued by the school as the school was only from 5th to 10th standard. According to the learned A.G.P., the committee while issuing validity to Vijayalaxmi also did not get the said document of Vyankati verified. In the present matter, the contra entries of Ananda Mohnaji establishes that the family of the petitioner does not belong to "Mannervarlu" tribe. The committee has considered all the validities and the relationship of the petitioner threadbare.

4. After remand of the matter the petitioner could establish his relationship with Vijayalaxmi. Some of the old documents were also subject matter of consideration while granting validity to Vijayalaxmi. The petitioner relies on the judgment of the Division Bench of this Court in a case of **Apoorva D/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No.1 and Ors.** reported in **2010 (6) Mh.L.J. 401** to submit that validity issued to near relatives is a relevant fact.

5. Considering the fact that, many of the old entries referred to were subject matter of consideration while granting validity to

Vijayalaxmi and show cause notice is proposed to be issued to Vijayalaxmi, we pass the following order.

6. The committee shall issue validity certificate to the petitioner of “Mannervarlu” (Scheduled Tribe). The said validity certificate shall be subject to the decision that would be taken by the committee in the proceedings reopened of the validity holders relied by the petitioner.

7. Writ petition is disposed of. No costs.

(S. G. DIGE)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

P.S.B.