

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

**REVIEW APPLICATION NO.277 OF 2022
IN
WRIT PETITION NO.7095 OF 2021**

Prashant Hanmantrao Barlawar
Age: 39 years, Occu : Service as Shikshan Sevak
Under Zilla Parishad, Aurangabad
R/o. Row House No.8,
High Court Colony, Ranjeet Nagar,
Satara Area, Aurangabad. .. Applicant

Versus

1. Scheduled Tribe Scrutiny Committee,
Konkan Division, Thane,
Through its Member Secretary
2. The Zilla Parishad,
Aurangabad, through its
Chief Executive Officer .. Respondents

...

Mr. Ajay S. Deshpande, Advocate for the applicant
Mr. A.S. Shinde, AGP for the Respondents – State
Mr. Amol Jakatkar, Advocate for Respondent No.2

...

**CORAM : MANGESH S. PATIL &
SANDEEP V. MARNE, JJ.**

DATE : 17.10.2022

ORDER (*PER* SANDEEP V. MARNE, J.) :

. By this petition, Petitioner seeks review of judgment and order dated 03.10.2022 dismissing his petition challenging decision of the Scrutiny Committee rejecting his caste claim of 'Mannervarlu' tribe.

2. We must observe at the outset that the petition is more in the nature of appeal over the findings recorded in the judgment. There is no averment in the Review Petition that there is any error apparent on face of record in the judgment under review. On this ground itself, petition deserved to be dismissed *in limine*.

3. The only possible error pointed out in the judgment under review is that this Court proceeded on assumption that grant of validity in favour of the petitioners' brother Pravin triggered filing of application by Petitioner for reopening the earlier proceedings in Writ Petition No.5405 of 2004, which had attained finality. In the judgment under review, it has been observed that the petitioner filed Civil Application for recalling of order passed in Writ Petition No.5405 of 2004 only on account of issuance of validity certificate in favour of his brother Pravin. It is pointed out in the review petition that Pravin's validity was decided on 25.05.2007, whereas Civil Application seeking recall of order in Writ Petition No. 5405 of 2004 was sworn in on 28.03.2007 and the same was filed on 09.04.2007.

4. True it is that the Civil Application seeking recall of the order in Writ Petition No.5405 of 2004 appears to have been filed on 09.04.2007 before grant of validity in favour of brother Pravin.

However, the same would not have any impact on the ultimate result in the writ petition. Filing of civil application after decision of Pravin's validity is not a reason for dismissal of the writ petition. Petition has been dismissed on various other grounds unconnected with the date of filing of such civil application. Therefore, the error in assuming that the civil application was filed after decision of Pravin's validity would not have any impact on the ultimate decision that is arrived at in the judgment under review. Therefore this ground to seek review of the judgment is rejected.

5. The rest of the grounds in the review petition urged before us by Mr. Deshpande are in the nature of appeal towards the findings recorded in the judgment under review. The ground that Prvain had voluntarily disclosed the petitioner's invalidation to the committee has been considered in para - 19 of the judgment under review. The ground of non availability of the school records of father and two uncles is raised to tackle the finding in para nos.14 and 15 of the judgment under review, wherein this Court has taken into consideration their contra entries. We are afraid, this ground raised in the review petition is in the nature of appeal over the findings recorded in para nos.14 and 15 of the judgment under review. Even otherwise, the petitioner is unable to explain as to how school records

of uncle Iranna (which contains favorable entries) can be available if the record was indeed destroyed.

6. The ground of availability of two vigilance committee reports while deciding tribe claim of Pravin does not also cut any ice as long as it is established that Pravin did not disclose rejection of his brother's validity in his application and the same was not highlighted even by the vigilance in either of the reports. The petitioner himself has placed on record, a copy of Vigilance Report dated 16.11.2006 in case of Pravin in which column 19 required information of rejection of tribe claim of blood relatives. The vigilance did not disclose rejection of the petitioner's tribe claim in column 19 and chose to put hyphen sign against that column. This was possibly on account of the petitioner himself keeping column no.17A of his application blank, which required him to disclose if the validity of any of his blood relatives was decided in the past. Thus, there can be no matter of doubt that Pravin suppressed the information of rejection of petitioner's tribe claim in his application, which led to the vigilance cell also not disclosing the same. Mere stray reference made by Pravin in his application dated March, 2007 about rejection of his brothers' tribe claim would not wipe out his conduct of deliberate suppression of information in the application form. As held in para-19 of the judgment under review, Pravin in fact attempted to mislead

the Committee in his application of March 2007 that tribe claim of his brother had not attained finality, when in fact the same had actually attained finality and attempt to reopen the case was made by the petitioner by filing Civil Application later on 09.04.2007.

7. In the result, we find that no case is made out for review of the judgment. As observed earlier, there is not even an averment in the review petition that there is any error apparent on the face of record. The review petition is filed by making following averments:

‘3. Applicant states that, having gone through the judgment delivered by this Hon’ble Court, the applicant realized that **certain significant aspects of the matter, going to the very root of the controversy, seem to have unnoticed from the eyes of the Hon’ble Court.** The applicant therefore approaches this Hon’ble Court invoking its review jurisdiction. The applicant rises following grounds:’

This, in our view, does not fit within the grounds available for review under Order 47, Rule 1 of Code of Civil Procedure, 1908. Even otherwise, there is no error apparent on the face of record in the judgment under review.

8. Review petition is dismissed without any orders as to costs.

(SANDEEP V. MARNE, J.)

(MANGESH S. PATIL, J.)