

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

WRIT PETITION NO.14802 OF 2021

1. Rajendra Ambadas Akole,
Age : 51 years, Occu. Service,
2. Suresh Ambadas Akole,
Age : 53 years, Occu. Service,
3. Mahendra Ambadas Akole,
Age : 49 years, Occu. Business,

All R/o Plot No.144,
In front of Bagadia Hotel,
Manish Nagar, Jalna,
Tq & District Jalna.

... Petitioners

Versus

1. Scheduled Tribe Certificate
Scrutiny Committee,
Aurangabad Division,
Aurangabad,
Through its Member Secretary.
2. Land Development Circle, Beed,
Superintendent Engineer,
Majalgaon Kalwa Division No.10, Parbhani,
Tq. and District Parbhani
Through its Sub Executive Engineer.
3. Maharashtra State Electricity Distribution
Company Ltd.,
Division No.1 Mastgad, Darga Road,
Jalna Tq. & District Jalna.
Through its Executive Engineer.
4. Jijamata Mahila Adhyapak Vidyalaya,
Sidnkhedraja, District Buldhana,
Through its Principal.

... Respondents

WITH

WRIT PETITION NO.14803 OF 2021

Rohit Nandkishor Akole,
Age : 34 years, Occu : Service,
R/o Plot No.54, Prerna Colony,
Pimpargavhan Road, Beed,
Tq. & District Beed.

... **Petitioner**

Versus

1. Scheduled Tribe Certificate
Scrutiny Committee,
Aurangabad Division, Aurangabad,
Through its Member Secretary.

2. District & Sessions Court, Beed,
Through its Administration Dept.

... **Respondents**

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Adv. for Petitioners : Mr. M. S. Deshmukh h/f Mr. Gite U. B.
AGP for Res.-State in WP/14802/21 : Mr. K. N. Lokhande.
AGP for Res.-State in WP/14803/21 : Mr. S. B. Pulkundwar.

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**CORAM : A. S. GADKARI, AND
S. G. MEHARE, JJ.**

DATE : 21.02.2022

JUDGMENT : (Per S. G. Mehare, J.) :-

1. Rule. Rule made returnable forthwith. By the consent of parties heard finally.

2. The caste invalidations of petitioners in these petitions are under challenge.

3. Petitioners have claimed that they belong to the “Mannervarlu” Schedule tribe. Their claim is based on eight earlier validity certificates issued to their blood relations. However, the Scrutiny Committee has declined their claims as there was contra evidence against them. The parental relations have obtained validity by hiding the old caste entries in the school record of their relatives other than Mannervarlu. The caste validity of one Yogita Bhagwan Akole relied on by the petitioners was invalidated as it was obtained by suppressing the facts. The affinity test is also against the petitioners.

4. The learned counsel for the petitioners would submit that the invalidation of Yogita Akole was not suppressed. The relations of the petitioners' family with her family were strained can be evident from a partition suit bearing Regular Civil Suit No.282/1988 filed by her father against Ambadas Gangaram, the father of the petitioner Rajendra. The Scrutiny Committee in a show-cause notice dated 15.11.2021, did not call upon the petitioners to explain said purported aspect of

suppression of her invalidation of tribe claim. The writ petition Nos.13575 of 2021 and 13576 of 2021 challenging the same order have been quashed and set aside by the Co-ordinate Bench of this Court by its order dated 08.12.2021. The impugned order is against the settled principles of law. Hence, both the petitions may be allowed.

5. The learned A.G.P. opposed the petitions by contending that the facts have been elaborately discussed by the Committee and substantial contra evidence was available against the petitioners. The petitioners are not Mannervarlu by caste. The order passed by the Co-ordinate Bench in the above petitions are not absolute, therefore the petitioners cannot claim the parity. The petitions are devoid of merit, hence those may be dismissed.

6. By a common impugned order, the caste validity claims of the members of the same family have been determined. The Co-ordinate Bench of this Court has dealt with the order impugned before this Court and considered the fact of invalidation of the Caste of Yogita Bhagwan Akole. The Co-ordinate Bench on the same facts has taken a view that eight

parental cousins are issued with validity certificates. The petitioners have made efforts to get the documents of invalidation of Yogita's claim but due to the dispute between the families of Yogita and petitioners, they could not get the documents. The copy of the plaint was also referred to by the Co-ordinate Bench. The show-cause notices are issued to validity holders relied upon by the petitioners. Validity issued to parental relatives is the relevant facts as is held in ***Apoorva Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No.1 and others*** reported in ***2010 (6) Mh.L.J. 401***. The old entries of "Mannervarlu" and validity issued to the eight parental relatives have been considered by the Co-ordinate Bench and petitions were allowed conditionally.

7. The Co-ordinate Bench of this Court has already considered the facts and law in force as of today as regards the caste validity certificates issued to the parental relatives. The Scrutiny Committee has not placed any other material contrary to the material discarded by the Co-ordinate Bench. The same common order based on the same set of facts and documents has been considered by the Co-ordinate Bench of this Court. The conditional order passed by the Co-ordinate Bench is

acceptable to the petitioners. We do not find any reason to take a different view. Hence, we pass the following order :-

ORDER

- (i) Both the petitions are allowed.
- (ii) The impugned order rejecting the caste validity of the petitioners dated 26.11.2021 by respondent No.1 is quashed and set aside.
- (iii) The Committee/respondent No.1 shall issue the Caste Validity Certificate of “Mannervarlu” Schedule Tribe to the petitioners.
- (iv) The said Caste Validity Certificates shall be subject to the decision that would be taken by the Committee / respondent No.1 in the proceeding opened on the validity relied upon by the petitioners.
- (v) Rule made absolute in the above terms.
- (vi) No orders as to costs.

(S. G. MEHARE, J.)

(A. S. GADKARI, J.)

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vmk/-