

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

WRIT PETITION NO. 12924 OF 2018

Rushali D/o Balaji Chitale,
Age : 22 Years, Occu. : Education,
R/o Tuppa, Tq. Nanded,
Dist. Nanded.

.. Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary,
Higher & Technical Education
Department, Mantralaya,
Mumbai.
2. The Scheduled Tribe Caste Certificate
Verification Committee, Aurangabad,
Through its Member Secretary,
Aurangabad.
3. The Dean
Pandit Deendayal Upadhyay
Dental College, J 19/1, Kegaon,
Solapur, Dist. Solapur.
4. The Registrar,
Maharashtra University of Health
Sciences, Dindori Road, Mhasrul/
Nashik, District Nashik.

.. Respondents

Shri Sunil M. Vibhute, Advocate for the Petitioner.

Shri S. B. Yawalkar, Addl. G.P. for the Respondent Nos. 1 and 2.

**WITH
WRIT PETITION NO. 13257 OF 2018**

Akshay S/o Balaji Chitale,
Age : 24 Years, Occu. : Education,
R/o Tuppa, Tq. Nanded,

Dist. Nanded.

.. Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary,
Higher & Technical Education
Department, Mantralaya,
Mumbai.
 2. The Scheduled Tribe Caste Certificate
Verification Committee, Aurangabad,
Through its Member Secretary,
Aurangabad.
 3. The Principal,
Degree College of Physical Education,
HVPM, Hanuman Vyayam Naga,
Near Shri Ekvira Devi Temple,
Amravati, Dist. Amravati.
- .. Respondents

Shri Sunil M. Vibhute, Advocate for the Petitioner.

Shri S. B. Yawalkar, Addl. G.P. for the Respondent Nos. 1 and 2.

The Respondent No. 3 is served.

**WITH
WRIT PETITION NO. 4562 OF 2019**

Shubham S/o Gangadhar Chitale,
Age : 25 Years, Occu. : Student,
R/o At post Tuppa, Tq. Nanded,
Dist. Nanded.

.. Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai – 32.
2. The Director of Medical Education,
Saint John Hospital Campus,

Mumbai – 32.

3. Maharashtra University of Health Sciences, Through its Registrar, Dindori Road, Mhasrul, Nasik, District Nasik.
4. Scheduled Tribe Certificate Verification Committee, Aurangabad, Dist. Aurangabad Through its Joint Director, CIDCO, Aurangabad.
5. The Dean,
Dr. Panjabrao @ Bhausaheb Deshmukh Memorial Medical College,
Amravati.

.. Respondents

Shri Chandrakant R. Thorat, Advocate for the Petitioner.

Shri S. B. Yawalkar, Addl. G.P. for the Respondent Nos. 1, 2 & 4.

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

DATE : 03.10.2022.

JUDGMENT (*Per Sandeep V. Marne, J.*) :-

. Rule. Rule made returnable forthwith. With the consent of parties taken up for final hearing.

2. The petitioners Rushali and Akshay are children of Balaji Gunaji Chitale. The third petitioner Shubham Gangadhar Chitale is also paternal side relative of Balaji Gunaji Chitale. Balaji Gunaji Chitale was issued with validity certificate dated 16.08.2008 in respect of ‘Mannervarlu’ Scheduled Tribe. The tribe claims of Rushali Chitale and Akshay Chitale were rejected

by the Caste Scrutiny Committee, Aurangabad by order dated 19.10.2018. The caste claim of the Shubham Gangadhar Chitale has been rejected by order dated 26.03.2019.

3. Rejection of caste claims of Rushali and Akshay triggered issuance of show cause notice to their father Balaji Gunaji Chitale proposing cancellation of his validity certificate. The committee also issued similar show cause notices to several relatives of Balaji for cancellation of their validity certificates on account of rejection of tribe claims of Rushali and Akshay.

4. The show cause notices issued to Balaji Chitale and other relatives came to be challenged before this Court by filing several writ petitions. By judgment and order dated 08.09.2022 passed in Writ Petition No. 2552 of 2019 (filed by Balaji Gunaji Chitale) and other connected writ petitions, this Court set aside the show cause notices on the ground that there was no finding of fraud, misrepresentation or gross suppression of material facts while issuance of validity certificates in their favour. Since the show cause notices came to be set aside, the claim of Balaji Gunaji Chitale and other relatives of 'Mannervarlu' scheduled tribe has attained finality.

5. Following the decision of the Apex Court in the case of **Apoorva Nichale Vs. Divisional Caste Certificate Scrutiny Committee** reported in **2010(6) Mh. L. J. 403**, the tribe claims of the three petitioners Rushali D/o Balaji Chitale, Akshay S/o Balaji Chitale and Shubham S/o Gangadhar Chitale are also

required to be upheld.

6. Mr. Yawalkar, the learned Additional Government Pleader appearing for respondents/State Government opposes the present petitions contending that while deciding the tribe claims of the petitioners, the Committee has recorded a finding of correction of entries relating to caste from 'Mannurwar' to "Mannervarlu" by the Education Officer in respect of some of the relatives. However, this aspect has already been taken into consideration and dealt with in the judgment of **Balaji S/o Gunaji Chitale** (supra). Mr. Yawalkar would further contend that the petitioners have not been able to prove their tribe claim in the affinity test. The Apex Court in the case of **Anand Vs. Committee** reported in **(2012) 1 SCC 113** has held that the affinity test is not a litmus test. Furthermore, since the tribe claim of father of the petitioners Rushali and Akshay, namely Balaji Chitale has attained finality, the claims of his children Rushali and Akshay cannot be rejected on the ground of affinity test. Rather the decision in the case of **Apoorva Nichale** (supra) mandates upholding of tribe claims of the petitioners on account of finality of the validity certificates issued in favour of Balaji and other relatives.

7. Consequently, we allow the petitions by setting aside the orders passed by the Scrutiny Committee dated 19.10.2018 in the case of Rushali Balaji Chitale and Akshay Balaji Chitale as well as order dated 26.03.2019 passed in the case of Shubham Gangadhar Chitale. We direct the Scheduled Tribe Certificate

Scrutiny Committee, Aurangabad to issue validity certificates in favour of the respective petitioners within a period of eight (08) weeks from today. Rule is made absolute in above terms. There shall be no order as to costs.

[SANDEEP V. MARNE, J.]

[MANGESH S. PATIL, J.]

bsb/Oct. 22