

Prajakta Vartak

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO. 9330 OF 2018
WITH
INTERIM APPLICATION NO.19089 OF 2022**

Gayatri d/o Govind Kalyanpad ...Petitioner
Versus
The State of Maharashtra & Ors. ...Respondents

Mr. S. B. Talekar with Ms. Madhavi Ayyapan i/b. Talekar &
Associates for the Petitioner.
Mrs. P.G. Gavhane, AGP for State/Respondent Nos.1 & 2.
Mr. Sameer Khedekar for Respondent No.3.

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

DATE : 17 NOVEMBER 2022

PC:-

1. The caste claim of the petitioner as belonging to Mannerwarlu Scheduled Tribe is invalidated.
2. The learned counsel for the petitioner submits that the father of the petitioner namely Govind is issued with the Validity Certificate of Mannerwarlu Scheduled Tribe community. The real paternal uncle of the petitioner namely Pandurang is also issued with the Validity Certificate by the Committee. The learned counsel submits that the daughter of the real uncle of the petitioner namely Supriya, daughter of Vitthal is also issued with the Validity Certificate. The other paternal cousins namely Mayuri, daughter of Shriram and Aniket, son of Shriram are issued with the Validity

Certificates under the orders of this Court in the writ petitions filed by them.

3. There are voluminous documents relied upon by the petitioner. These documents were subject matter of consideration when the validity was issued to the father of the petitioner, uncle of the petitioner and other paternal relatives. The learned counsel for the petitioner submits that the affinity is not the litmus test. Reliance is placed on the judgment of the Supreme Court in *Anand v/s. Committee for Scrutiny and Verification of Tribe Claims and Ors.*, (2012) 1 SCC 113. The learned counsel also relies upon the judgment of the Division Bench in case of *Apoorva Vinay Nichale v/s. Divisional Caste Certificate Scrutiny Committee No.1 and others*, 2010(6) Mh. L.J. 401.

4. The learned AGP submits that the school record of the uncle of the petitioner was Mannurwar. The same was corrected as Mannerwarlu. The original record could not have been corrected illegally. It is further submitted that the school record of Namdeo Mashnaji also records the caste as Mannurwar. These are the contradictions on record which the Committee has considered. The petitioner failed in the affinity test. The petitioner does not belong to the area where the Mannerwarlu Scheduled Tribe community people reside.

5. We have considered the submissions. We have gone through the judgments. In fact, in the genealogy presented before the committee, Namdeo is not shown as a son of Mashnaji. Even in

the chart, Namdeo, son of Mashnaji is only referred to as “bhavki”. No exact relationship is spelt out.

6. It is submitted that the school record of the uncle of the petitioner namely Vitthal was corrected under the orders of the Education Officer.

7. The father and the real uncle of the petitioner are issued with the validity certificates. It is submitted by the learned counsel for the petitioner that all these entries are also subject matter of consideration when the validity was issued to them. Mayuri and Aniket are also issued with the Validity Certificates under the orders passed by this Court in the writ petitions.

8. The petitioner has relied upon the following documents:-

Sr. No	Name of School	Admission Sr. No.	Name of Student	Relationship with the Applicant	Entry of Caste	Date of Admission/Registration	Remark
1	Z. P. K. Pri. School, Ambulga, Tal. Mukhed, Dist. Nanded	1/1026	Kalyanpad Pandurang Babarao	Father's real brother	Mannerwarlu	Dt. of Birth 03/06/1984 Dt. of admission 05/07/1990	
2	Z. P. K. Pri. School, Ambulga, Tal. Mukhed, Dist. Nanded	01/1751	Kalyanpad Ku.Shobhata i Babarao	Father's real sister	Mannerwarlu	Dt. of Birth 20/02/1983 Dt. of admission 04/07/1988	
3	Z. P. K. Pri. School, Ambulga, Tal. Mukhed, Dist. Nanded	01/812	Kalyanpad Sarubai Babarao	Father's real brother	Mannerwarlu	Dt. of Birth 05/07/1983 Dt. of admission 11/07/1989	
4	Z. P. K. Pri. School, Ambulga, Tal. Mukhed, Dist. Nanded	02/602	Kalyanpad Poonam Manohar	Father's cousin sister	Mannerwarlu	Dt. of Birth 01/05/1993 Dt. of admission 14/06/1999	
5	Z. P. K. Pri. School, Ambulga, Tal. Mukhed, Dist. Nanded	02/894	Kalyanpad Pratibha Manohar	Father's cousin sister	Mannerwarlu	Dt. of Birth 07/07/1995 Dt. of admission 02/07/2001	

6	Z. P. K. Pri. School, Ambulga, Tal. Mukhed, Dist. Nanded	02/1035	Kalyanpad Prasad Manohar	Father's cousin brother	Mannerwarlu	Dt. of Birth 16/05/1997 Dt. of admission 23/06/2009	
7	Z. P. K. Pri. School, Ambulga, Tal. Mukhed, Dist. Nanded	02/201	Kalyanpad Pravin Manohar	Father's cousin brother	Mannerwarlu	Dt. of Birth 11/09/1999 Dt. of admission 01/07/2003	
8	Z. P. K. Pri. School, Ambulga, Tal. Mukhed, Dist. Nanded	01/1026	Kalyanpad Pandurang Babarao	Father's real brother	Mannerwarlu	Dt. of Birth 03/06/1984 Dt. of admission 05/07/1996	
9	Z. P. K. Pri. School, Ambulga, Tal. Mukhed, Dist. Nanded	1/43/522	Kalyanpad Govind Babarao	Father	Mannerwarlu	Dt. of Birth 08/07/1969 Dt. of admission 20/07/1975	
10	Z. P. K. Pri. School, Ambulga, Tal. Mukhed, Dist. Nanded	01/80/70 8	Kalyanpad Vitthal Babarao	Father's real brother	Mannerwarlu	Dt. of Birth 08/07/1969 Dt. of admission 20/07/1975	The said full entry is at the foot of the register and it is seen that in Entry No, 180/708 as well as entry no. 181/708, the entry no. 180/708 is made and it is written in different ink.
11	Z. P. K. Pri. School, Ambulga, Tal. Mukhed, Dist. Nanded	01/136/ 663	Kalyanpad Padminbai Babarao	Father's real sister	Mannerwarlu	Dt. of Birth 06/07/1974 Dt. of admission 09/07/1980	
12	Z. P. K. Pri. School, Ambulga, Tal. Mukhed, Dist. Nanded	01/362	Kalyanpad Gopal Babarao	Father's real brother	Mannerwarlu	Dt. of Birth 01/02/1978 Dt. of admission 01/07/1983	
13	Shanti Niketan Vidyalaya Tal. Mukhed, Dist. Nanded	01/434	Vyankat Marotirao Kalyanpad	'Bhavki' (i.e. Kinsmen)	Munnurwad Mannerwarlu	Dt. of Birth 29/02/1968 Dt. of admission 11/06/1979	No. 72 A Miscellan -eous Certificat e of Manner- warlu Caste 'Ka.' 'P' 3462 'T.' 'Ka.' Mukhed

							Dt. 22/08/79 'A' 'Sha' 'Ki' 'Vi' Ambulga C. No. Dt. 05/09/79
14	Shanti Niketan Vidyalaya Tal. Mukhed, Dist. Nanded	01/532	Page containing Name, is tattered	Father	Mannerwarlu	Dt. of Birth 10/01/1972 Dt. of admission 19/06/1982	Page containing Full name of the student, is tattered.
15	Shanti Niketan Vidyalaya Tal. Mukhed, Dist. Nanded	01/468	Vitthal Babarao Kalyanpad	Father's real brother	Munnurwad Mannerwarlu	Dt. of Birth 10/01/1972 Dt. of admission 19/06/1982	As per O.No. 'Pi' 'P' 'No' 'Shi' 'A' 'Ma' 4/82-83/8449 5, dt. 26/09/1982, Mannerwarlu is written in red ink and C.O. has affixed signature .
16	Z.P. High School , Jahur, Tal. Mukhed, Dist. Nanded	5/592	Namdeo Mashnaji Kalyanpad	'Bhavki' (i.e. kinsmen)	Munnurwad	Dt. of Birth 06/05/1954 Dt. of admission 06/07/1971	

9. In the light of the above, we pass the following order:-

ORDER

- i. The impugned order is set aside.
- ii. The Committee shall issue Validity Certificate to the petitioner of Mannerwarlu Scheduled Tribe.
- iii. In case the judgment in Writ Petition No.10490 of 2017 dated 03 October, 2017 at the principal seat at Bombay is reviewed, the present judgment shall be subject to the same.
- iv. Writ petition is disposed of.

iv. In view of disposal of the writ petition, interim application is also disposed of.

(S.G. DIGE, J.)

(S.V. GANGAPURWALA, J.)