

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.13357 OF 2022

Shubham Shivajirao Maldode & Anr. ...Petitioners

Versus

State of Maharashtra & Ors. ...Respondents

Mr.R.K. Mendadkar, for the Petitioners.

Mr.N.C. Walimbe, AGP for Respondent-State.

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

DATE : 16 NOVEMBER 2022

P.C:-

. The caste claim of the Petitioner as belonging to Mannervarlu, Scheduled Tribe is invalidated.

2. Amongst other submissions, one of the submission of the learned counsel for the Petitioner is that the first paternal cousin of the Petitioner namely Vaishanavi Yashwantrao Maldode had also applied for issuance of the validity certificate of Mannervarlu, Scheduled Tribe. The same was invalidated. She filed Writ Petition bearing No.7585 of 2018 before this Court. This Court allowed the said Writ under the judgment and order dated 24 July 2018.

3. Similarly, another paternal cousin of the Petitioner namely Nandini Devanand Maldode had also applied for the issuance of the validity certificate of the Mannervarlu, Scheduled Tribe. The same was invalidated. She filed Writ Petition bearing No.7617 of 2018. The same was also allowed by this Court under order dated 24 July 2018.

4. According to the learned counsel in view of the judgment of the Division Bench of this Court in case of *Apoorva Vinay Nichale V/s. Divisional Caste Certificate Scrutiny Committee No.1 and Ors.*¹, the Petitioner is entitled for validity certificate.

5. The learned AGP submits that the validity directed to be given by this Court to the paternal cousin of the Petitioner is conditional validity. The said aspect has been considered by the Committee. There are contra entries on record. The Petitioner failed in the affinity test.

6. The Division Bench of this Court under order dated 24 July 2018 has in WP No.7585 of 2018 and WP No.7617 of 2018 filed by the first paternal cousins of the Petitioner has passed the following order.

6. The learned Government Pleader submits that since some interpolation is noticed in the school record of Petitioner's real uncles Devanand, Shivaji and paternal cousin sister Madhuri,

1 2010(6) Mh.L.J. 401

the Committee has issued a show cause notice to the them. We find that the Committee has not recorded specific findings as regard possibility of some interpolation. Be that as it may, we have noticed that the Petitioner's real uncles Devanand. Shivaji and paternal cousin sister Madhuri Petitioner's father Pundlik and real uncle Laxman have already been granted caste validity certificate. Thus in our considered view, the reason assigned by the Committee for rejection of the Petitioner's claim cannot be sustained as it runs contrary to the view taken by the Division Bench of this Court in the case of Apoorva Vinay Nichale (supra).

7. In the circumstances, in the light of the judgment in the case of law laid down in the cases of Apoorva Nichale, Anand vs. Committee and Raju Ramsing Vasave (supra), the Petitioner is entitled to be granted caste validity certificate forthwith. However, the issuance of the certificate shall be subject to the outcome of the show cause notice which has been issued against the Petitioner's real uncles Devanand, Shivaji and paternal cousin sister Madhuri by the Committee as the caste validity certificate issued to the them is found to be based on interpolation/adverse entries.

8. In view of above, the Committee is directed to issue Tribe validity certificate to the Petitioner forthwith. As the Committee has already initiated proceeding for cancellation of validity issue to the blood relations of the Petitioner in response to the Courts query, it is assured by the Committee that the Committee will conclude those proceeding within a period of three months from the date of receipt of copy of this order. If the proceeding for cancellation of caste validity holders are answered against such certificate holders, it shall be open for the Respondent Committee to issue show cause notice to the Petitioner as to why the validity certificate granted to Petitioner should not be cancelled and it will be open for the Committee to take those proceeding to its logical end. Needless to say that the certificate issued to the Petitioner is subject to the outcome of the proceeding for cancellation of validity issue in favour of her blood relations.”

7. In view of the above, we follow the same course and pass the following order.

ORDER

(i) The Committee shall issue the validity certificate to the Petitioner of Mannervarlu, Scheduled Tribe immediately.

(ii) The said validity certificate shall be subject to the outcome of the proceedings wherein show cause notice is issued to validity holders relied by the Petitioners.

7. Writ Petition accordingly disposed of. No costs.

(S.G. DIGE, J.)

(S.V. GANGAPURWALA, J.)