

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 2099/2021

Sharda Krishnaswami Battulwar alias
Dr.Sharda Lokesh Naidu (after marriage),
Aged About 51 Years, Occu: Service,
R/o Anoue Peter England Showroom, Plot No.302,
Prathamesh Plaza, Untkhana Hanuman Nagar,
Nagpur – 440 009.

PETITIONER

-VERSUS-

1. The State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai – 32.
2. The Scheduled Tribe Certificate Scrutiny
Committee, Nagpur Division, Nagpur,
Through its Deputy Director and Member
Secretary having office at 2nd Floor, Adiwasi
Vikas Bhavan, In front of RTO Office,
Amravati Road, Giripeth, Nagpur.
3. Ishwar Deshmukh College of Physical
Education, Through its Principal, Krida
Chowk, Hanuman Nagar, Nagpur.

RESPONDENTS

Shri A.I. Sheikh, counsel for the petitioner.
Shri N.R. Patil, Assistant Government Pleader for the respondent nos.1 and 2.

CORAM : A. S. CHANDURKAR AND URMILA JOSHI-PHALKE, JJ.

DATE : 25TH JULY, 2022.

ORAL JUDGMENT (PER : A.S. CHANDURKAR, J.)

RULE. Rule made returnable forthwith and heard the learned counsel for the parties.

2. The challenge raised in this writ petition is to the order dated 18.02.2021 passed by the Scrutiny Committee invalidating the petitioner's claim of belonging to 'Mannewar' Scheduled Tribe.

3. The petitioner claims that she and her forefathers belong to 'Mannewar' Scheduled Tribe. The petitioner is serving as a Lecturer at the respondent no.3-College and her tribe certificate was sent to the Scrutiny Committee for verification. After obtaining the report of the Vigilance Cell, the Scrutiny Committee invalidated the petitioner's claim mainly on the ground that the documentary material relied upon by the petitioner was not sufficient to hold that she belonged to 'Mannewar' Scheduled Tribe.

4. We have heard the learned counsel for the parties and we have also perused the impugned order. The Scrutiny Committee in the impugned order has found that the documents of the years 1940 and 1943 referred to the caste of the petitioner as 'Telugu'. Other documents with the entry 'Mannewar' are after 1950 and according to the Scrutiny Committee since the petitioner was not in possession of old documents, her claim was not liable to be accepted. During pendency of the writ petition, the petitioner has filed an additional affidavit in which it has been stated that after the impugned order was passed by the Scrutiny Committee, she got knowledge about various pre-independence documents with her blood relatives. Alongwith the affidavit she has produced three documents of the years 1925, 1932 and 1935 of her blood relatives to contend that the entry 'Mannewar' is found in these old documents. It is stated that since the petitioner had no knowledge about

these old documents, the same could not be placed before the Scrutiny Committee. It is therefore requested by the petitioner that the proceedings be remitted to the Scrutiny Commissioner for considering these old documents since they belong to her blood relatives.

5. We have perused the additional affidavit filed by the petitioner and alongwith the same the aforesaid old documents have been placed on record. *Prima-facie*, the entries therein refer to the caste 'Mannewar'. The documents considered by the Scrutiny Committee bear the entry 'Telugu'. Telugu cannot be said to be the name of any caste/tribe. There are other documents with the entry 'Mannewar'. Considering the fact that the petitioner is in service and has now obtained pre-independence documents a case has been made out to direct the Scrutiny Commissioner to re-consider the petitioner's tribe claim. The aforesaid documents were not before the Scrutiny Commissioner and to enable consideration of the same it would be necessary for the Vigilance Cell to examine the old documents.

6. For aforesaid reasons and to facilitate re-consideration of the petitioner's tribe claim, the impugned order dated 18.02.2021 is set aside. In the light of the additional affidavit filed by the petitioner indicating existence of old documents the proceedings are remanded to the Scrutiny Committee at Nagpur for fresh adjudication in accordance with law. To

facilitate such adjudication, the petitioner shall appear before the Scrutiny Committee on 05.08.2022. The process of verification be completed within a period of one year from that date. Till then the services of the petitioner shall not be discontinued for want of validity certificate.

7. Rule is made absolute in aforesaid terms. No costs.

(URMILA JOSHI-PHALKE, J.)

(A.S. CHANDURKAR, J.)

APTE