

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

WRIT PETITION NO.1430 OF 2023

Prathamesh Laxman Kanke
Age : 17 years, Occu: Education
R/o. Shirshi (Kh), Tq. Parbhani,
Dist. Parbhani
through father and natural guardian
Laxman Manikarao Kanke
Age : 48 years, Occu: Service
R/o. As above

... **PETITIONER**

VERSUS

1. The State of Maharashtra
through its Secretary,
Tribal Development Department
Mantralaya, Mumbai
2. The Scheduled Tribe Caste Certificate
Verification Committee Aurangabad
through its Dy. Director (R),
Dist. Aurangabad
3. The Commissioner and Competent Authority,
Commissioner of Common Entrance Test Cell,
Government of Maharashtra,
8th Floor, New Excelsior Building,
A.K. Naik Marg, Fort, Mumbai

... **RESPONDENTS**

...

Advocate for Petitioner : Mr. Sunil M. Vibhute
AGP for Respondents: Mr. A.S. Shinde
Advocate for Respondent No.3 : Mr. M.D. Narwadkar

...

**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, J.J.**

DATE : 23.06.2023

PER COURT :

Heard the learned advocate for the petitioner and the learned
AGP finally.

2. In view of the exigency inasmuch as the petitioner is stated to have appeared for NEET and is aspiring for further admission, matter is taken up for final disposal at admission stage.

3. Petitioner is aggrieved by the order passed by the respondent No.2 – Scrutiny Committee dated 30.11.2022 thereby dismissing his claim as belonging to ‘Mannervarlu’ Scheduled Tribe. We have carefully gone through the impugned order and heard both the sides carefully.

4. Apart from anything else, it is a matter of record that the father of the petitioner faced invalidity in the year 2003 and he has filed a writ petition which is still pending in this Court.

5. It is also apparent that apart from some distant relations who have subsequently obtained validities stated to be the blood relations, the petitioner’s real uncle Bhagwat Manikrao Kanke has been issued with a validity certificate. The committee has refused to take it as a favourable circumstance on the ground that he had obtained that validity in the year 2008 without disclosing the invalidity suffered by the petitioner’s father Laxman who is the real brother of that Bhagwat.

6. The copy of the report of the Vigilance Cell in the matter of Bhagwat has been placed on record (**Exhibit-B**) wherein in Column No.22 Item No.16 it had expressly noted about invalidity in the case of Laxman Manikrao Kanke and even filing of the Writ Petition No.3454/2003 by him. It is therefore apparent that when Bhagwat’s matter was before the Scrutiny Committee the fact regarding invalidity of his real brother Laxman was

expressly brought to the notice of the committee by the Vigilance Cell. Consequently, the conclusion drawn by the committee that Bhagwat had obtained the validity by practising fraud does not appeal to reason on facts.

7. This boils down to a situation that although the petitioner's father is still awaiting validation of his claim, in the meantime, petitioner's real paternal uncle has been issued with the validity certificate way back in the year 2008 which is still in force.

8. Learned AGP, on instructions, submits that a notice has been issued to Bhagwat in the year 2021 and the matter is awaiting decision.

9. Irrespective of the stand being taken by the respondent Scrutiny Committee and without intending to affect its decision in the reopened case of Bhagwat, we feel it appropriate that we adopt the course that has been followed by this Court in several matters consistently of granting conditional validity, making it subject to the out come of the cases the committee intends to or has reopened. This appeals to the reason and logic.

10. We allow the writ petition partly, quash and set aside the impugned order and direct the respondent No.2 to issue a validity certificate to the petitioner as belonging to 'Mannervarlu' Schedule Tribe as expeditiously as possible and in any case within two weeks. However, this validity would be subject to following conditions :

- i. The validity would be subject to the final out come of the decision being taken in the reopened case of Bhagwat - paternal uncle of the petitioner.

- ii. The petitioner and Bhagwat shall cooperate the Scrutiny Committee in getting the reopened case decided as expeditiously as possible and if it is noticed that they are protracting its conclusion, the validity granted to the petitioner may be revoked.
- iii. The Scrutiny Committee shall decide the reopened case of Bhagwat as expeditiously as possible and in any case within six months. Petitioner would stand to lose all the benefits which he would derive from the validity if ultimately the decision in the matter of Bhagwat reaches finality and faces invalidity.

11. The petitioner would not be entitled to any equities.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)