

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

WRIT PETITION NO.782 OF 2023

Rupali d/o Subhash Haidalwar Petitioner

Versus

Deputy Director (Research) and
Member Secretary and another. Respondents

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Mr. C.R. Thorat, Advocate for petitioner.
Mr. S.B.Yawalkar, AGP for respondents

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**CORAM : NITIN W. SAMBRE &
S. G. CHAPALGAONKAR, JJ.**

Date : 21st March, 2023

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ORDER :- (Per S.G.Chapalgaonkar, J.)

1. The petitioner approaches this Court under Article 226 of the Constitution of India, thereby challenging the order dated 14.11.2022 passed by the Respondent No.1-Scheduled Tribe Certificate Verification Committee, Aurangabad as well as the order dated 18.12.2020 passed by the Sub-Divisional Officer, Kinwat, thereby rejecting the claim of the petitioner for issuance of Tribe Certificate.

2. The contention of the petitioner is that, she belongs to "Mannervarlu" Scheduled Tribe. She has submitted proposal

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for issuance of Tribe Certificate on 27.11.2020 to the Sub-Divisional Officer, Kinwat alongwith the supporting documents. However, her claim came to be rejected for the reason that she failed to submit the documents prior to year 1950 in support of her Tribe claim. The petitioner approached the Appellate Authority under section 4 of the Caste Certificate Act, however, the appellate authority i.e. Scheduled Tribe Certificate Verification Committee, Aurangabad dismissed the appeal for similar reasons as were assigned by the Sub Divisional Officer.

3. Mr. Thorat, learned advocate appearing for the petitioner submit that the petitioner belongs to "Mannervarlu" Scheduled Tribe. She requires the caste certificate for her employment. She had applied for issuance of such certificate before the competent authority i.e. Sub-Divisional Officer at Kinwat, District Nanded alongwith supporting documents. The petitioner has placed on record extract of school leaving certificate of her father i.e. Subhash Shankarrao Haidalwar dated 6.7.1978 which records the caste as 'Mannervarlu'. Mr. Thorat, learned advocate would further submit that school extract of the petitioner dated 2.7.2007 also records her caste as 'Mannervarlu'. The petitioner has also placed on record AAA/-

school extracts of her real brother and sister which records their caste as "Mannervarlu". Mr. Thorat, learned advocate appearing for the petitioner would further submit that the oldest caste record available is in respect of the father of the petitioner. Except her father, nobody has attended the school. Even, her father was required to drop his education at nason stage. None of the relative or the family members of the petitioner is qualified or entered in Government job. Even, revenue record depicting the caste of the petitioner or her family member is not available. He would further submit that, in absence of contra evidence, the petitioner ought to have been issued caste certificate.

4. Mr. Yawalkar, learned AGP appearing for the respondents would submit that the Sub Divisional Officer as well as the Caste Verification Committee recorded adequate reasons for rejecting the application of the petitioner for issuance of the caste certificate. He would submit that the Caste Scrutiny Committee has also recorded adequate reasons in the order dated 14.11.2022. He invited attention of this Court to the observations of the committee in paragraph nos.2 to 5 and submit that the petitioner has produced recent documents
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Further, school record relied by the petitioner would show that her mother tongue is 'Telugu'. He would urge that, the family of the petitioner is from the Telugu speaking area where large number of the castes having similarity with 'Mannervarlu' Tribe are available. The possibility of raising false claim for taking undue benefit cannot be ruled out. He would further invite attention of this Court to Rule 3(3) of the The Maharashtra Scheduled Tribes (Regulation of Issuance and Verification of) Certificate Rules, 2003 to submit that it was incumbent upon the petitioner to produce pre-independence Era documents in support of her caste claim.

5. Having considered the submissions advanced by the learned advocates appearing for the respective parties, we have appreciated the documents placed on record before us. The petitioner has produced the copy of school register extract of her father which is of the year 1978, that depicts his caste recorded as 'Mannervarlu'. The school extract of the petitioner would show that her caste is recorded as 'Mannervarlu'. School extracts of the brother and sister are also depicting the caste recorded as 'Mannervarlu'. It is not in dispute that no contra material is available by which the claim of the petitioner

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can be dislodged. The petitioner specifically contends that none of the family members of the petitioner had been to school before her father was admitted to the school. She had candidly stated that none of the family member had Government job.

6. In view of the aforesaid factual aspect, if the section 4 of the Maharashtra Scheduled Castes, Scheduled Tribes, De-Notified Tribes (Vimukta Jaties), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 (for short 'said Act') is considered, it empowers the competent authority to issue the caste certificate after satisfying itself about genuineness of the claim. Upon reading of section 4(1) and clause 1, 3, 4, 6, 11, 12 and 13 of Rule 4, it can be inferred that the competent authority is required to cause formal inquiry to satisfy regarding genuineness of the documents that has been tendered alongwith the application submitted under section 3 of the Act. The jurisdiction of the competent authority as well as appellate authority is extremely limited to the extent of forming prima facie opinion on the basis of the record furnished for consideration of the authorities. It is thus AAA/-

clear that the procedure contemplated for issuance of the caste certificate under section 4 of the said Act is rather formal and cannot be equated with the procedure under Rule 12 that deals with the procedure to be followed by the Scrutiny Committee for verification of the caste claim.

7. In the present case, the petitioner has produced the copies of extracts of the school register showing admission of her father in the year 1978. Similarly, school extracts of her brother and sisters are also pressed into service. It is nobody's case that the documentary evidence relied upon by the petitioner in support of her claim for issuance of caste certificate was unreliable, doubtful or suspicious. The Sub Divisional Officer as well as the Scheduled Tribe Certificate Verification Committee rejected the application submitted by the petitioner for issuance of caste certificate only for the reason that old record is not furnished in support of the claim.

8. This court in the matter of **Rahul Ashok Satlawar Vs Deputy Director (Research) and Member Secretary, and another** in WP no.14069 of 2019 dated 30th the January, 2020 observed as under :-

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“3. The school record of the petitioner records caste as ‘Mannervarlu’. It is submitted that the school record of one uncle Venkat Narayan Satlawar record the caste as ‘Mannervarlu’. The said entry is of the year 1988. The entries in respect of another uncle of the petitioner, Devidas of the year 1980 records the caste as ‘Mannervarlu’. There are other records of the cousin also recording caste as ‘Mannervarlu’ in the school record. No contradictory evidence appears on record. It is trite that at the stage of deciding the application for issuance of caste certificate, authority has to be prima facie satisfied.”

9. In another case in Writ Petition no.4151 of 2010 (**Akash Govindrao Chinmalwar Versus The State of Maharashtra and others**) decided on 13th July, 2011 this Court observed as under :-

2. We have considered, with the assistance of the learned Advocates for the parties, the impugned orders and in our opinion, these orders are erroneous. The Sub-Divisional Officer has committed a serious error by refusing the certificate, on the ground that the petitioner had not produced any documents relating to his tribe claim, prior to 1950 and because the census of 1951 that the caste recorded with respect to the petitioner’s relative was Koli.

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3. The petitioner has produced before the Sub-Divisional Officer various documents including the school records of himself and his father, the validity certificate issued to his parental cousin and various other documents, which indicated that his caste was recorded as “Mahadeo Koli”. The Sub-Divisional Officer, while issuing the certificate of caste tribe is expected to only consider, prima facie, whether there are documents on record, indicating the applicant’s caste. He is not expected to consider the validity of the claim made by the petitioner. It is a prima facie, inquiry which he is expected to conduct, based on the documents on record. In the present case, there was sufficient material to issue such a certificate as the documents produced show that the petitioner’s tribe was Mahadeo Koli’.”

10. It is no more res-integra that the Sub-Divisional Officer is expected to consider the correctness of the documents submitted by the applicant seeking issuance of the caste certificate. The inquiry undertaken by the Sub-Divisional Officer need not be in the manner as required for issuance the validity certificate. In the present case, the reasoning adopted by the Sub-Divisional Officer as well as the Scheduled Tribe Certificate Verification Committee appears to be erroneous. In

absence of contra evidence, there was no reason to discard the claim of the petitioner for issuance of the caste certificate, particularly, relying upon the school extract of her father dated 6.7.1978.

11. In view of the aforesaid observations, we proceed to pass the following order.

ORDER

- i. Writ Petition is allowed.
- ii. The order dated 14.11.2022 passed by the respondent no.1 Scheduled Tribe Certificate Verification Committee, Aurangabad as well as the order dated 18.12.2020 passed by the Sub-Divisional Officer, Kinwat, District Nanded on the application of the petitioner is quashed and set aside.
- iii. The respondent no.2 Sub-Divisional Officer, Kinwat is directed to issue Tribe Certificate to the effect that the petitioner belongs to 'Mannervarlu' Tribe. However, this does not mean that we have in any manner validated her Tribe claim. Respondent no.2 shall issue certificate within a period of four weeks from the date of service of writ of this order.

iv. Writ Petition accordingly disposed off.

(S. G. CHAPALGAONKAR, J.)

(NITIN W. SAMBRE, J.)

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