

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

WRIT PETITION NO. 11174 OF 2021

Pooja d/o Baburao Sudewad,
Age : 26 years, Occu. Education,
R/o. Mendka, Tq. Mukhed,
Dist. Nanded.

....Petitioner

Versus

1. The State of Maharashtra
Through its Secretary,
Medical Education and Drugs Department,
Mantralaya, Mumbai.
2. The Scheduled Tribe Caste Certificate
Verification Committee, Aurangabad,
Through its Dy. Director (R),
Dist. Aurangabad.

....Respondents

.....

Mr. Sunil M. Vibhute – Advocate for the petitioner
Mr. S. G. Sangle – AGP for respondent nos. 1 and 2
Mr. Shrikant S. Patil – Advocate for respondent no. 3

.....

AND

WRIT PETITION NO. 11173 OF 2021

Bhagyashree d/o Baburao Sudewad,
Age : 26 years, Occu. Education,
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**CORAM : MANGESH S. PATIL
AND
NEERAJ P. DHOTE, JJ.**

DATED : 07 NOVEMBER 2023

COMMON JUDGMENT [Per : Neeraj P. Dhote, J.] :-

1. Rule. Rule made returnable forthwith. Heard finally with the consent of the parties and taken up for final disposal at the stage of admission. Perused the papers. As the impugned order dated 02.08.2021 passed by the respondent no. 2 – Scrutiny Committee is the common order in both the petitions, both the petitions are disposed of by this common Judgment.

2. The petitioners are the sisters pursuing their respective education. Their claim towards 'Mannervarlu' Scheduled Tribe was referred to the Scrutiny Committee. After directing vigilance inquiry, the Scrutiny Committee passed the impugned order invalidating their claims on the grounds that, in the documents of their near relatives, the caste was mentioned by making additions/alterations, failure to show the affinity and area restrictions.

3. It is submitted by learned advocates for the petitioners that the real paternal uncle, real brother, cousin sister, cousin brother of the petitioners are issued with the validity certificates by the Committee by following due procedure of law. It is submitted that the Committee erred in ignoring the said vital aspect and invalidated the claim on the ground that there were corrections in the column of caste in the documents of their near blood relatives. It is submitted that, it is the settled position under the law that until the blood relatives are holding the validity certificates, the claimants cannot be deprived of the validity towards the tribe claim. He submitted that the impugned order be set aside and the Scrutiny Committee be directed to issue the validity certificates.

4. The learned AGP submitted that during the inquiry in the tribe claim of the petitioners, it is revealed that there were corrections in the caste column of the relatives of the petitioners and in some documents which are relied by the petitioners, the tribe is mentioned as 'Munurwar' and 'Munurwad' and, therefore, the respondent no. 2 – Caste Scrutiny Committee has rightly invalidated the tribe claims of the petitioners.

5. The record shows that certain entries of the caste of the relatives/distant relatives of the petitioners are mentioned as 'Munurwar' and 'Munurwad' and according to the Scrutiny Committee,

'Lu' came to be added to the words 'Mannervar' to derive the benefits of the said tribe claim. However, the fact remains that the near blood relatives of the petitioners are issued with the validity certificate towards 'Mannervarlu' Scheduled Tribe after following the due process. The genealogy is not in dispute. There is merit in the contention of the learned advocate for the petitioners that, till the validity of blood relatives of the petitioners is intact, they cannot be deprived of the validity. Therefore, in these factual aspects and in the light of the principles laid down by the Hon'ble Supreme Court in the cases of **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra Ors.** reported in **2023 SCC Online SC 326**, **Palghat Jilla Thandan Samudhaya Samrakshna Samithi and Another Vs. State of Kerala and Anr.** reported in **(1994) 1 SCC 359** and **Jaywant Dilip Pawar Vs. State of Maharashtra and Ors.** reported in **2018 (5) All MR 975**, the impugned order is unsustainable in the eye of law and needs to be quashed and set aside with the directions to the Scrutiny Committee to issue the tribe validity certificates to the Petitioners as belonging to 'Mannervarlu' Scheduled Tribe subject to the final outcome of the matters which the Committee has decided to re-open. Thus, we proceed to pass the following order :

ORDER

[i] Writ Petitions are partly allowed.

- [ii] The Judgment and Order dated 02.08.2021 passed by the respondent no. 2 - Scrutiny Committee, is quashed and set aside.
- [iii] The Scrutiny Committee shall issue tribe validity certificate in favour of the Petitioners as 'Mannervarlu' within a period of two weeks from today, which shall be subject to the following conditions;
 - [a] the validity certificate shall be subject to the outcome of the re-verification proposed to be undertaken by the Scrutiny Committee.
 - [b] the petitioners shall not claim any equity.

6. Rule made absolute in the aforesaid terms with no order as to costs.

[NEERAJ P. DHOTE]
JUDGE

[MANGESH S. PATIL]
JUDGE