

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

WRIT PETITION NO.10446 OF 2023

Omkesb s/o Shankarrao Puppulwad ... **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, Kinwat
 Headquarter at Aurangabad,
 through its Deputy Director (R),
 District Aurangabad

... **RESPONDENTS**

...
Advocate for Petitioner : Mr. Sunil M. Vibhute
Addl.G.P. for respondent/State : Mr. S.G. Sangale

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

DATE : 15.09.2023

ORDER (MANGESH S. PATIL, J.) :

The petitioner is challenging the order of the Scrutiny Committee constituted under Section 6 of the Maharashtra Act XXIII of 2001 (herein after the Act) , whereby, it has confiscated and cancelled his certificate of 'Mannervarlu' scheduled tribe. Since the petitioner is in urgent need of the decision to secure his admission in the ongoing NEET-UG-2023 process, we have taken up the matter for final disposal at admission stage.

2. The learned advocate for the petitioner would submit that though there is no preconstitutional record, whatever school record the petitioner possesses consistently shown his blood relations to be 'Mannervarlu'. Even if the Committee has now entertained doubt about some revenue record in the name of his grandfather Sayanna Sambhu, he is not relying upon those revenue record. Independently, since there are several consistent entries in the school record of the petitioner's blood relations, the Committee should have validated his claim.

3. The learned advocate would further submit that in spite of the settled legal position, the Committee has also resorted to area restriction and has applied affinity test. The observations and the conclusions of the Committee are clearly perverse, arbitrary and may be quashed and set aside.

4. Per contra, the learned AGP strongly opposes the petition. He submits that though there are consistent entries of 'Mannervarlu' those of recent origin. Even if a claimant is not supposed to have old record, the conduct of the petitioner and his blood relations is highly objectionable. Even if the petitioner is now conveniently taking a stand that he would not be relying upon the revenue record commented upon by the Committee, it is an attempted fraud and should be looked upon with equal seriousness. Petitioner is seeking to derive the benefit of social status to claim reservation but has indulged in clear manipulation and fraud as has been noticed by the Committee. It has taken a plausible

view taking into consideration such manipulation and has refused to validate the claim. This Court in exercise of the power under Article 226 of the Constitution should not come to the petitioner's rescue. Allowing such fraudulent claims would indirectly depriving the persons who really belonging to that scheduled tribe.

5. We have carefully considered the rival submissions and perused the original file.

6. Obviously, though by virtue of Section 8 of the Act burden is on the claimant to substantiate his claim of belonging to a particular caste or tribe, it is to be discharged by preponderance of probabilities. It may not be possible for every claimant to produce some preconstitutional record. However, admittedly, the petitioner's favourable record of recent origin, wherein, the school record of his blood relations since 1979 onward referred to them as 'Mannervarlu'.

7. However, simultaneously, as has been rightly remarked by the Committee and as even we have after going through the photocopies and coloured photocopies of the original record that the petitioner and his family members have clearly resorted to forgery and manipulation of the school record as well as revenue record. As far as the school record of Zilla Parishad (Primary) School, Mandala, Centre Bitnal, Tq. Umri District Nanded, at serial No.61 the original entry in respect of the students name is Pupulwad Saibu. The letters 'saibu' has been scratched and below it 'Mahadu Saibu' has been added in the next line this school

record is of 1980. Similarly in the Khasra Patrak which is revenue record in respect of land survey No.A, below the holders name Sayanna Sambhu world Mannervarlu and Kolam have been added. This record is of 1953-54.

8. If such is the state of affairs, wherein, there is clearly manipulation in the revenue and school record which in all probability must have been done with a sinister design to somehow put up a claim to derive the social reservation, this is nothing but a fraud on the constitution which has been attempted.

9. Even it reported that in respect of petitioner's grandfather Saibu Sambhu in the Pahani Patrak which is a revenue record stated to be of 1350 fasli corresponding to 1940 AD in respect of survey No.60 having a certified copy No.RK/10/2017 which was relied upon by the petitioner, when an inquiry was made with the concerned Tahsil Office. During the vigilance inquiry, Tahsildar by a written correspondence expressly informed that the entry in the register at serial No.RK/10/2017 is in the name of one Bhucchanna Shivaji resident of Ashta meaning thereby that without there being any entry in the original revenue register, even its extract was obtained to make it appear as if the original entry was in the name of petitioner's grandfather Saibu Sambhu.

10. This is one more incident noticed by the Committee and even confirmed by us which clearly substantiates the inference drawn by the Committee that a false and bogus record has been created to somehow

substantiate the claim.

11. If such is the sorry state of affairs, when the Committee has undertaken a threadbare scrutiny and has clearly demonstrated as to how rampant forgery has been resorted to seek the validation, we have not a slightest hesitation in subscribing the inference, having gone through the original record.

12. The writ petition is dismissed.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)