

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

WRIT PETITION NO.12643 OF 2021

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| 1. Sayali Prakash Ajiwar | |
| 2. Sahil Prakash Ajiwar | |
| 3. Anurag Balaji Ajiwar | |
| 4. Soundarya Balaji Ajiwar | ... PETITIONER |

VERSUS

- | | |
|--|------------------------|
| 1. The State of Maharashtra
through its Principal Secretary,
Higher and Technical Education
Department, Mantralaya, Mumbai-32 | |
| 2. The Commissioner & Competent Authority,
Government of Maharashtra,
State Common Entrance Test Cell,
8 th Floor, New Excelsior Building
A.K. Nayak Marg, Fort,
Mumbai – 400 001. | |
| 3. Deputy Director (Research)
and Member Secretary,
Scheduled Tribe Certificate
Verification Committee,
Near Saint Lawrence High School,
Town Centre, CIDCO, Aurangabad
Dist. Aurangabad | ... RESPONDENTS |

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Advocate for Petitioners : Mr. C.R. Thorat
A.G.P. for respondent Nos.1 to 3: Mr. S.G. Sangale

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**CORAM : MANGESH S. PATIL &
NEERAJ P. DHOTE, JJ.**

DATE : 04.11.2023

ORDER (MANGESH S. PATIL, J.) :

By way of this common petition the four petitioners are challenging the common order of the respondent – Scrutiny Committee invalidating their claims of being belonging to “Mannervarlu” scheduled

tribe and confiscating and cancelling their tribe certificates in the proceedings under Section 7 of the Maharashtra Act XXIII of 2001. The petitioners Sayali and Sahil are real siblings and Soundarya and Anurag are also siblings and the former are related to the latter as first degree cousins.

2. Rule. Rule is made returnable forthwith. At the joint request of the parties, the matter is heard finally at the stage of admission.

3. The learned advocate for the petitioners vehemently submits that the Committee has failed to appreciate the evidence in the proper perspective. It has acted in a prejudiced manner, doubted the claim and even has refused to extend the benefit of the certificate of validity possessed by father of petitioners - Sayali and Sahil, Prakash. He would submit that Prakash was granted certificate of validity by following due process of law. Even vigilance inquiry was conducted at that time and since 2008 he possesses certificate of validity. Though the Committee has castigated him of having resorted to misrepresentation and concealment of the contrary record. Till the time his certificate of validity is in force, the petitioners who are his children/nephew and niece could not have been denied the benefit, in the light of the principles laid down in the matter of **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and Ors.; 2023 SCC Online SC 326.**

4. The learned advocate would submit that the Committee's observation that entry of petitioners' paternal uncle Tukaram Venkanna Ajiwar (Sr. No.733/1) in the school record is perverse. Its observation that it

is in different handwriting and ink is incorrect.

5. The learned advocate would further submit that the stand of the Committee that even there is a school record of Tukaram at Sr. No.138 of the same school is incorrect. The petitioners had not relied upon that school record and still, without there being any reference about it in the vigilance report, the Committee has used it against them. The petitioners do not rely upon that record and the Committee ought not to have attributed them with the manipulation in that respect. Though the Committee has referred to a contrary entry traced during the vigilance inquiry in respect of Hanmallu Venkanna Ajiwar, he had died when he was a child and the validity holder Prakash as also the petitioners have been unaware about his school record and it was not deliberately concealed. The petitioners are also denying the school record of their paternal aunt Anjali. These two are merely stray entries and no inference could have been drawn on the basis of those to discarded claims.

6. The learned AGP strongly opposes the petition. He submits that there are contrary entries of Hanmallu and Anjali in their respective school records of the year 1966 and 1976 showing them as 'Munurwad' and 'Mannurwar, respectively. He would also submit that pursuant to the direction of this Court the original school record in respect of Tukaram was also called by this Court from the Zilla Parishad Kendriya Prathmik Shala, Tq. Naigaon District Nanded. The manipulation is writ large. The entry at Sr. No.733/1 is incorporated in different handwriting and ink at the bottom

side of the page, after the regular entry at serial No.733. The first entry on the next page is 734 and Tukaram's entry was clearly inserted later on. Similarly, there is no entry at serial No.138 of the school register and still, validity holder Prakash in his own case had derived the advantage of this entry at serial No.138 of the year 1953. Therefore, Prakash has obtained certificate of validity, when there was no entry at serial No.138 of his father Tukaram of that school. Whereas, the Tukaram's entry at serial No.733/1 has been concealed by the present petitioners and could be traced in the vigilance inquiry. If such is the state of affairs, when the petitioners and Prakash both have resorted to manipulation and concealment the Committee has rightly refused to extend the benefit of validity of Prakash and has even correctly appreciated the circumstance to refute the petitioners' claim of belonging to 'Mannervarlu' scheduled tribe.

7. The petitioners have been claiming to be belonging to Mannervarlu scheduled tribe. They had produced certain record to substantiate their claim in the form of school records of their own, their respective fathers and the certificate of validity of Prakash. Oldest of this record was that of Prakash which was in the form of extract of the first page of the service book which entry was taken in the year 1967 when he got the employment, wherein, he was described as Mannervarlu.

8. As against this the Committee could trace out the school record of petitioners' cousin grandfather Hanmallu Venkanna Ajiwar of 1966 wherein, he was described as 'Munurwad'. It also recovered the entry of

Tukaram Venkanna Ajiwar who is petitioners' grandfather of serial No.733/1 which is of the year 1962 and the school record of petitioners' paternal aunt Anjali of 1976, wherein, she was described as Mannurwar.

9. Conspicuously in petitioners' response to the vigilance report their reply is evasive in respect of these aforementioned contrary/manipulated record. They have not denied the relationship with Hanmallu and aunt Anjali. As regards the school record of the Hanmallu they contended that he had died long back, even before the birth of their respective father. Since at no time there was any discussion in the family about he being their cousin grandfather, they contended that they cannot surely state as to if that entry is of their cousin grandfather. If such is the state of affairs, the stand of the respondent is clearly evasive and adverse inference is liable to be drawn. *Ex facie*, the school record of Hanmallu and Anjali of 1966 and 1976 as 'Munurwad' and 'Manurwar, are contrary to their claims of being belonging to Mannervarlu scheduled tribe.

10. In addition, the school record of petitioners' grandfather Tukaram, which Prakash had relied upon while getting the certificate of validity was of serial No.138 wherein, he was stated to be admitted to the school on 09.02.1953. The petitioners had conveniently omitted to place it on the record before the Scrutiny Committee *albeit* they must be alive to the fact that Prakash had relied upon this entry. Even if they have not relied on that entry and their advocate also disown it, it was expected that except denial they should have come out with some precise stand as to why they

have not been relying upon this entry. They could have explained as to why the validity of Prakash does not suffer from vice of resorting to this 1953 school record of his father Tukaram which is turned out to be non-existent, as is informed by the Headmaster of the school during the inquiry and as we could notice after examining the original register which was called by us by a specific order and the Headmaster of the school had brought it to the Court today.

11. Interestingly, even the petitioners have not been relying upon the entry at serial No.733/1 of the same school register of Tukaram which is of the year 1962. Again, it was traced in the vigilance inquiry. The Committee as also even we have examined that entry and we are not required to take pains to appreciate the fact that the observation of the Committee in that regard of this entry being a clear manipulation is, indeed, clearly sustainable. The petitioners have conveniently, perhaps in all probability because of the apparent manipulation, have not resorted to even this entry. It is as clear as a daylight that this entry has been taken at the bottom of the page after serial No.733. It is in different handwriting and ink than the rest of the handwriting and ink of the particulars in this register and was assigned serial No.733/1.

12. The petitioners in their reply to the vigilance report have not disputed existence of this manipulated entry of their grandfather Tukaram.

13. The situation which emerges is like this. The validity holder Prakash had obtained the certificate of validity by producing the school

record of his father Tukaram of the year 1953 at serial No.138, whereas, the petitioners are not relying upon either that piece of evidence nor are they relying upon the school record at serial No.733/1 of Tukaram.

14. True it is that in the current vigilance inquiry, in the petitioners' matter they had not produced and relied upon the school entry at serial No.138 and in the normal circumstance could not have been expected to respond to it in their written reply. Still the fact remains that this entry was relied upon by the validity holder Prakash and the petitioners have been seeking advantage of his validity. But their learned advocate on instructions has been disowning it now.

15. As against it though the petitioners have responded to the vigilance report and Tukaram's school record at serial No.733/1, but have not given any concrete reply either admitting or denying it to be of their grandfather.

16. In the nutshell, there are two contrary entries of Hanmallu and Anjali and there are two manipulated and a concocted piece of evidence one relied by validity holder Prakash and the one which the petitioners conveniently concealed but could be traced during vigilance inquiry, of Tukaram's record at serial No.733/1. Merely because there are subsequent favourable entries in the school records of the petitioners and some of their blood relations those are of later period and cannot prevail over the inconsistent entry of Hanmallu and Anjali which will have a greater probative value, in view of the decision in the matter of **Anand Vs.**

Committee for Scrutiny and Verification of Tribe Claims and Ors.; (2012) 1 SCC 113.

17. If the validity holder Prakash was able to procure a certificate of validity by using a non-existent school record of his father Tukaram of 1953 and when the petitioners in all probability have designedly maintained conspicuous silence in respect of Tukaram's both entries, one relied upon by Prakash and one traced in the vigilance inquiry, in our considered view, the conclusion arrived at by the Committee is a plausible one and deserves to be accepted. It cannot be interfered with in exercise of the powers under Article 226 of the Constitution of India.

18. In the light of the above, we do not find that the order under challenge is perverse or arbitrary.

19. The writ petition is dismissed. Rule is discharged.

(NEERAJ P. DHOTE, J.)

(MANGESH S. PATIL, J.)