

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

WRIT PETITION NO. 14142 OF 2021

1. Yogesh s/o Maroti Sudewad,
Age : 20 years, Occu. Student,
R/o. Mendka, Tq. Mukhed,
Dist. Nanded.
2. Urmila d/o Gangadhar Sudewad,
Age : 18 years, Occu. Student,
R/o. Mendka, Tq. Mudkhed,
Dist. Nanded.

....Petitioners

Versus

1. The State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai.
2. The Commissioner & Competent Authority,
Government of Maharashtra,
State Common Entrance Test Cell,
8th Floor, New Excelsior Building,
A. K. Nayak Marg, Fort,
Mumbai.
3. Deputy Director (Research) and
Member Secretary,
Scheduled Tribe Certificate Verification Committee,
Near Saint Lawrence High School,
Town Centre, CIDCO, Aurangabad,
Dist. Aurangabad.

....Respondents

.....
Mr. Chandrakant R. Thorat – Advocate for the petitioners
Mr. S. G. Sangle – AGP for respondent/State
.....

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

DATED : 30TH OCTOBER 2023

PER COURT :-

1. Heard learned advocate for the Petitioners and the learned AGP for Respondent/State, for final disposal. Perused the papers.
2. The order dated 08.11.2021 passed by the Respondent no. 3 / Scrutiny Committee invalidating the tribe claim of the Petitioners towards 'Mannervarlu' Scheduled Tribe is under challenge in this petition. The Petitioners are the students and are having the tribe certificate of belonging to 'Mannervarlu' Scheduled Tribe. Their tribe claims came to be referred to the Respondent No. 3 – Scrutiny Committee, which has invalidated the same by the impugned order.
3. It is submitted by the learned advocate for the Petitioners that the Respondent No. 3 – Scrutiny Committee neglected the vital documents which are the validity certificates granted in favour of the Petitioners uncle and the father of Petitioner no. 1 towards 'Mannervarlu' Scheduled Tribe. He submitted that the Respondent No. 3 – Scrutiny Committee only considered the entries found during the vigilance inquiry in the documents of the relatives of the Petitioners as 'Munurwar' and corrections in the documents. He submitted that when the real uncles of the Petitioners are holding the validity certificates, the Petitioners cannot be denied the validity certificate towards the said tribe claim.

4. It is submitted by the learned AGP that since the Committee noticed the entries contrary to 'Mannervarlu' community in the vigilance cell report, the Committee came to a conclusion that the validity holders gave insufficient information and suppressed the school and revenue record from the Committee. He submitted that the Committee has decided to re-open the cases of validity holders in the Petitioners family. He submitted that no interference is called for in the impuned order.

5. The genealogy is not in dispute. The validity certificate towards 'Mannervarlu' Scheduled Tribe issued by the Scrutiny Committee to the real uncles of the Petitioners and the father of Petitioner no. 1 is not in dispute. True, that the Respondent No. 3 / Scrutiny Committee noticed that there are entries such as 'Munurwar', 'Munurwad' in the school records of the relatives of the Petitioners, the validity certificates issued to the real uncles of the Petitioners and father of Petitioner no. 1 cannot be ignored in the light of the principles laid down by the Hon'ble Supreme Court in the case of **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and Ors.** reported in 2023 SCC Online SC 326. The other aspects considered by the Scrutiny Committee in respect of affinity test and area restrictions cannot be held good in the light of principles laid down by the Hon'ble Apex Court in the cases of **Palghat Jilla**

Thandan Samudhaya Vs. State of Kerala and Another reported in (1994) 1 SCC 359, **Jaywant Dilip Pawar Vs. State of Maharashtra and Ors.** reported in 2018 (5) ALL.M.R. 975. Considering these factual and legal aspects of the matter, the Petitioners cannot be deprived of the conditional validity certificate. Thus, we proceed to pass the following order :

ORDER

- [i] The Judgment and Order dated 08.11.2021 passed by the respondent no. 3 - Scrutiny Committee, is quashed and set aside.
- [ii] 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. Writ Petitions are, accordingly, disposed of.

[NEERAJ P. DHOTE]
JUDGE

[MANGESH S. PATIL]
JUDGE