



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 14100 OF 2023

Mahesh S/o Damanna Gattuwar
Age: 26 years, Occu: Education,
R/o. Kundalwadi, Tq. Biloli,
District Nanded

... Petitioner

Versus

1. District Collector, Nanded
District Nanded

2. Scheduled Tribe Caste Certificate
Scrutiny Committee, Aurangabad
Through its Member Secretary

... Respondents

...

Mr. P. R. Katneshwarkar i/b Mr. Rahul P. Dhose, Advocate for the
Petitioner

Mr. G. A. Kulkarni, AGP for Respondent Nos.1 and 2

...

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

DATE : 18.12.2023

FINAL ORDER : [PER NEERAJ P. DHOTE, J.]

. Rule. Rule is 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.

2. The Petitioner has invoked the jurisdiction of this Court under Article 226 and 227 of the Constitution of India challenging the order dated 25/08/2023, passed by the Respondent No.2 - Committee invalidating his claim of 'Mannervarlu' Scheduled Tribe.

3. It is submitted by the learned Advocate for the Petitioner that though the documents supported the Petitioner's claim and the real brother and the real uncle of the Petitioner are holding the validities, the Respondent No.2 – Committee has invalidated the Petitioner's claim on erroneous grounds. He submitted that the Respondent No.2 – Committee has discarded the documents on the ground that those were of post-independence period. He further submitted that in view of the validities in the Petitioner's family, the documents collected during the vigilance inquiry showing contrary entries will not affect the Petitioner's claim. Therefore, the impugned order be set aside.

4. The learned AGP submitted that the blood relatives of the Petitioner were granted validity certificates without following due procedure and therefore, the validities were not considered by the Respondent No.2 – Committee. He submitted that the first validity holder in the Petitioner's family is his uncle, namely, Krishna Vankanna Gattuwar, whose validity is based on the documents of the persons who are not related by blood. Hence, the Writ Petition be dismissed.

5. The genealogy available in this Writ Petition is not disputed. The Respondent No.2 – Committee has observed in the impugned order that there are no pre-constitutional documents supporting the Petitioner's claim. There can be no doubt that the pre-constitutional documents will have more probative value but that cannot be a mandatory requirement. The impugned order shows that during the vigilance inquiry, the documents in respect of blood relatives of the Petitioner were collected, which are of post-independence period having the contrary entries such as 'Munurvar', 'Manurvar' and 'Manurvarlu'. It is observed by the Respondent No.2 – Committee that the validity holders in the Petitioner's

family were issued the validity certificates without following the due process of law.

6. One of the earliest validity holder in the Petitioner's family is his uncle, namely, Krishna Vankanna Gattuwar, who has been issued the validity of 'Mannervarlu' Scheduled Tribe by the Respondent No.2 - Committee. Perusal of the order, by which Krishna is granted validity, shows that the vigilance cell of Respondent No.2 - Committee had conducted the School and Home inquiry and Police Inspector had furnished his inquiry report favourable to the Applicant i.e. Krishna. This goes to show that the observation in the impugned order that he was granted validity without following the procedure, has no basis. Further, even if the contention of the learned AGP is accepted to the effect that the said two persons, namely, Rajesh and Sainath whose documents were submitted and relied upon while issuing validity to Krishna were not blood relatives, the fact remains that the vigilance inquiry was conducted and its report was favourable.

7. The Respondent No.2 - Committee also observes that during the vigilance inquiry, the documents in the nature of sale deed executed by the grandfather, cousin grandfather and uncle of the Petitioner were collected, in which, it is mentioned that the Petitioner's relatives did not belong to the Scheduled Tribes. It is needless to state that the caste or religion cannot be renounced in such a manner. The documents are in respect of conveyance and the contents therein cannot form the basis to invalidate the claim.

8. Another ground for invalidation is of affinity, which cannot be a litmus test for deciding a claim, in view of the observations in the case of

Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra Ors.; 2023 SCC Online SC 326.

9. In view of above discussion and validity certificates issued in favour of the Petitioner's blood relatives by following due procedure, invalidation of the Petitioner's claim by the Respondent No.2 – Committee is improper and the same is required to be interfered with. As the Respondent No.2 – Committee has decided to re-open the case of blood relatives of the Petitioner, the issuance of validity to the Petitioner will be subject to the outcome of the same. Hence, the following order:

ORDER

(i) The Writ Petition is partly allowed.

(ii) The impugned order is quashed and set aside. The Respondent No.2 – Committee shall issue certificate of validity to the Petitioner of 'Mannervarlu' Scheduled Tribe. It shall be subject to the final outcome of the matters which the Committee has decided to reopen.

(ii) The Petitioner shall not be entitled to claim equities.

10. Rule is made absolute in the above terms

[NEERAJ P. DHOTE, J.]

[MANGESH S. PATIL, J.]