

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

WRIT PETITION NO. 13793 OF 2023

1. Atharv s/o Shankar Medewad,
Age : 18 years, Occu. Education,
 2. Sukanya d/o Shankar Medewad,
Age : 23 years, Occu. Education,
- Both R/o. Barbada, Tq. Naigaon (Kh.),
Dist. Nanded.

....Petitioners

Versus

1. The State of Maharashtra,
Tribal Development Department,
Through its Secretary,
Mantralaya, Mumbai.
2. Scheduled Tribe Certificate Scrutiny Committee,
Kinwat, Having its Head Quarter at Aurangabad,
Through its Member Secretary

....Respondents

.....
Mr. Sagar S. Phatale – Advocate for the Petitioners
Mr. S. R. Yadav–Lonikar – AGP for Respondent/State
.....

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

DATED : 08TH NOVEMBER 2023

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.

2. The Petitioners, who are siblings, have challenged the common order passed by Respondent No. 2 – Scrutiny Committee invalidating their respective tribe claims towards ‘Mannervarlu’ Scheduled Tribe. The Petitioners are the students.

3. It is submitted by the learned advocate for the Petitioners that though the father, cousin brother and paternal side relatives are issued with the validity certificates towards the ‘Mannervarlu’ Scheduled Tribe, the Scrutiny Committee has ignored the same and invalidated tribe claim of the Petitioners on the basis of contra entry found during the vigilance inquiry in respect of Dhondiba, who is the uncle of the Petitioners and first validity holder in the family. It is submitted that the impugned order is contrary to the settled position and the Petitioners are entitled for the validity certificates towards ‘Mannervarlu’ Scheduled Tribe till the validities issued to the blood relatives of the Petitioners are intact.

4. Learned AGP submitted that the contra entry in the record of Dhondiba came to light during the recent vigilance inquiry and the same was not before the Committee when the validity was issued to Balaji. He submitted that there are two entries in respect of Dhondiba, which are of the same date i.e. 29.07.1963 showing his caste as Munnarwar and Mannervarlu and there was nothing to show

as to which was the correct one i.e. Munnarwar or Mannervarlu. He submitted that the Committee has decided to review the cases of the validity holders in the family of the Petitioners and hence, petition be dismissed.

5. Perusal of the papers show that during the vigilance inquiry, two entries of 1963 found in respect of the caste of Dhondiba, who is the first validity holder in the family of the Petitioners. Admittedly, one of the entry is 'Mannervarlu'. There is nothing to show as to which entry i.e. Munnarwar or Mannervarlu is prior in point of time and true. However, the undisputed factual aspect is that there is no dispute about the genealogy and issuance of validity certificates in favour of the father and cousin brothers of the Petitioners by following due procedure of law. It is for the Committee to deal with the matters which it has decided to review.

6. The other aspects considered by the Scrutiny Committee are affinity and area restrictions. Considering the factual aspects of the matter and 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 a direction to the Scrutiny Committee to issue 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

- 1) The writ petition is partly allowed. The impugned order is quashed and set aside. The respondent -committee shall immediately issue tribe validity certificates to the petitioners as belonging to 'Mannervarlu' scheduled tribe in the prescribed format without adding anything. The validities shall be subject to the final outcome of the matters which the committee has decided to re-open.
 - 2) The petitioners shall not be entitled to claim equities.
7. Rule made absolute in the aforesaid terms with no order as to costs.

[NEERAJ P. DHOTE]
JUDGE

[MANGESH S. PATIL]
JUDGE