

Amol

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5510 OF 2022

Atharva Nilesh Lokal ...Petitioner
Versus
State of Maharashtra through its Secretary Tribal ...Respondents
Development Department & Anr

Mr RK Mendadkar, for the Petitioner.
Mrs PJ Gavhane, AGP, for the Respondent-State.

CORAM G.S. Patel &
Neela Gokhale, JJ.
DATED: 5th July 2023

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1. Rule. Rule returnable forthwith.
2. The challenge is to an order of the 2nd Respondent Committee, the Scheduled Tribe Certificate Scrutiny Committee in Nashik's order of 14th January 2022 invalidating the Petitioner's Caste Certificate. The Petitioner sought validation of his Caste Certificate, a copy of which is at page 40, and shows him as belonging to the Mannervarlu Tribe.
3. The impugned order appears to us to be entirely unsustainable for multiple reasons. Before the Committee there

were pre-Constitution documents of the Petitioner's family members and blood relatives. These were entirely discarded saying that the vigilance officer could not trace these in an inquiry. That is hardly surprising. Then there is emphasis on the so-called failure of the affinity test. But this Court has repeatedly held that the affinity test is not determinative and that certificates cannot be rejected solely or even principally on this ground.

4. Most curiously, the Committee returned a finding that a certain person was not the uncle of the Petitioner although that person came personally, deposed and gave evidence of kinship and of belonging to the tribe in question.

5. But perhaps the most bizarre finding is the one that we see at page 37 where the Committee ventures so far as to say that Mannervarlu is not even included in the Maharashtra List. That is unsustainable. The Certificate issued by the Sub Divisional Magistrate not only mentions the tribe but also specifies its position in the Maharashtra List at Sr. No. 27. It is inconceivable that a Scrutiny Committee would say that a tribe with a specific entry is not in the Maharashtra List at all.

6. The order cannot be sustained. It is quashed and set aside. The 2nd Respondent is directed to forthwith issue a Validity Certificate to the Petitioner. Since the Petitioner is a student and not because he is aspiring to a practice in law, we direct the Committee to issue that Certificate by Monday, 10th July 2023. It will act on production of an authenticated copy of this order.

7. The Petition is disposed of in these terms. There will be no order as to costs.

(Neela Gokhale, J)

(G. S. Patel, J)