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WP 1418 OF 2022 W 7455 OF 2022 R-2.odt

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

WRIT PETITION NO. 1418 OF 2022

Vivek S/o. Vitthal Shamante
Age : 21 Years, Occu. Nil
R/o. Kotgyal, Tq. Biloli,
Dist. Nanded.

VERSUS

1. The State of Maharashtra
Through its Secretary
Tribal Development Department
Mantralaya, Mumbai-32
2. The Scheduled Tribe Certificate
Scrutiny Committee, Aurangabad
Division, Aurangabad,
Through its Member Secretary
3. The Deputy Collector / Land Acquisition
Officer, PT MIW No.01, Nanded,
District Nanded.
4. The Maharashtra University of Health
Science, Dindori Road, Mhasrul, Nashik
Through its Registrar.
5. Seth G. S. Medical College,
Acharya Donde Marg, Parel, Mumbai,
Through its Dean.
6. Directorate General of Health Services
Government of India
Through its Director.

WRIT PETITION NO. 7455 OF 2022

Shriniket S/o. Vitthal Shamante
Age : 23 Years, Occu. Nil,

R/o. Kotgyal, Taluka Biloli,
Dist. Nanded.

VERSUS

1. The State of Maharashtra
Through its Secretary
Tribal Development Department
Mantralaya, Mumbai-32
2. The Scheduled Tribe Certificate
Scrutiny Committee, Aurangabad
Division, Aurangabad, through
its Member Secretary
3. The Deputy Collector / Land Acquisition
Officer, PT MIW No.01, Nanded,
District Nanded.

Mr. V. D. Sapkal, Senior Counsel i/b Mr. B. B. Bhise, Advocate for the
Petitioner

Mr. S. K. Shirse, AGP for Respondent Nos.1 to 3

Mr. S. V. Chaudhari, Advocate for Respondent No.4

Respondent No.5 is served

Mr. B. M. Dhanure, for Respondent No.6 Union of India

**CORAM : SMT. VIBHA KANKANWADI
& S.G. CHAPALGAONKAR, JJ.**

Date : 09/01/2024

Judgment (per S. G. Chapalgaonkar, J.) :-

The petitioners in both these petitions have approached this court under Article 226 of the Constitution of India thereby assailing the order dated 14.12.2021 passed by the respondent No.2 Scheduled Tribe Certificate Scrutiny Committee, Aurangabad. The committee rejected petitioner's caste claim for "Mannerwarlu" schedule Tribe

2. Mr. Sapkal, learned Senior Advocate appearing for the petitioners would submit that the respondent No.2 Committee adopted hyper technical approach and invalidated the caste claim of the petitioners without looking to the voluminous documents supporting caste claim of the petitioners to be “Mannerwarlu” Mr. Sapkal would invite attention of this court to the list of documents relied upon by the petitioners as referred in para. No.2 of the impugned order, to contend that the documents right from the year 1952 in respect petitioner’s blood relations are available on record depicting entry of caste as “Mannerwarlu”. He would further submit that the cousin of the petitioners namely Shivaji Gangadhar Shamante has been already conferred validity certificate of “Mannerwarlu”.

3. Mr. Sapkal would further point out that the school record of Poshetti Sayanna Shamante i.e. petitioner’s grandfather shows caste as “Mannerwarlu” at the time of his admission in the school. The said school register has been relied by this Court while deciding caste validity of Kum. Rutuja in W.P. No. 9061 of 2019 decided on 22nd August, 2019. However, said document was not before the Committee in present case. He would submit that even the validity holder Shivaji Gangadhar Shamante has given affidavit confirming relationship with petitioners. The Committee declined consideration to the validity granted in favour of the Shivaji giving erroneous reasons.

4. Learned AGP appearing for the respondents, however, supports the impugned order. He would submit that prima facie, Shivaji Samante appears to have obtained validity certificate by suppression of material facts. The claim of Rajendra Shamante who is cousin uncle of

the petitioner has been invalidated by the Committee. The validity holder while perusing his claim suppressed aforesaid fact and also relation with Shri Rajendra Shamante. There are several contra entries in respect of blood relations of petitioner's as per the Vigilance Report. The Committee, after taking overall view of the matter rejected the claim. No fault can be found in the order passed by the Committee.

5. We have given anxious consideration to the aforesaid submissions and also perused the original record of the Committee. We find that the documents regarding school admission of Poshetti Sayanna Shamante, which is pressed into service along with additional affidavit before this Court, was not placed for consideration before the Committee. It appears to be the oldest entry in proximity of the period of Presidential Order. According to petitioner authenticity of such documents was considered by this court in W.P. No. 9061 of 2019.

6. If the aforesaid document is considered in case of the petitioners, subsequent contra entries may lose significance. However, aforesaid document was not produced before the Committee, it was not subjected to the vigilance inquiry, therefore we deem it appropriate to set aside the impugned order passed by the Committee and relegate matter for reconsideration of caste claim of petitioner in the light of the additional documents, pressed into service i.e. School record of Grand father.

7. The petitioners would be at liberty to file any more evidence in support of his caste claim. After granting such opportunity to the petitioners, the Committee shall take fresh decision in respect of the caste

validity of the petitioners. Aforesaid exercise be carried out within a period of six months from the date of this order.

8. Writ petitions are disposed of accordingly.

[S.G. CHAPALGAONKAR, J]

[SMT. VIBHA KANKANWADI, J]

grt/-