



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

**REVIEW APPLICATION NO. 63 OF 2024 IN
WRIT PETITION NO. 11974 OF 2021**

Sarvesh S/o Govind Jethewar,
Age : 21 years, Occu . : Student,
R/o : Daheli Taluka Kinwat,
District – Nanded

.. Petitioner

Versus

1] The State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai – 32

2] The Scheduled Tribes Certificate Scrutiny
Committee, Aurangabad
through its Member – Secretary

3] The State Common Entrance Cell,
Maharashtra State,
Through its Senior Director,
8th Floor, New Excelsior Building,
A.K. Nayak Marg, Fort,
Mumbai 400 001

.. Respondents

...
Advocate for applicant : Mr. S.R. Barlinge
AGP for the respondent – State : Mrs. V.N. Patil - Jadhav
...

**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 09 MAY 2024

ORDER (MANGESH S. PATIL, J.) :

Heard both the sides.

2. This is a review petition by the original petitioner from the writ petition seeking review of the judgment and order dated 26-07-2023, whereby the writ petition challenging the order passed by respondent no. 2 – scrutiny committee in a proceeding under section 7

of the Maharashtra Scheduled Castes, Scheduled Tribes, De-Notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000, whereby it had confiscated and cancelled his Mannervarlu scheduled tribe certificate issued by the competent authority, was dismissed.

3. Learned advocate Mr. Barlinge for the petitioner would submit that while holding the petitioner having failed to substantiate his claim of being Mannervarlu scheduled tribe, reliance has been placed on the contrary school record of Mohandas Sambanna Jethewar and this Court had committed an error in relying upon it in spite of the affidavits of one Ganesh Kanhaji Kachare and Gangaram Narayan Karanjewar. Those were to the effect that Mohandas was born to one Devatabai out of her wedlock. Petitioner's grandfather Sambanna Jethewar was taking care of Devatabai and her children Mohandas. This Court has erred in treating Mohandas as a blood relative of the petitioner. Mohandas was born to Devatabai from her husband albeit, she was living with petitioner's grandfather Sambanna. This being the error on the face of record, the judgment and order of this Court needs to be reviewed.

4. Mr. Barlinge would then submit that in paragraph no. 13 of the judgment under review, reliance has been placed by this Court in

the school entry of 1979 which was to the effect of 'Munurvar' which is not a caste anywhere and ought to have been treated as 'Mannervarlu'.

5. Mr. Barlinge would, lastly, submit that most of the documents placed on record indicated that the petitioner and his blood relations were treated as Mannervarlu and consequently, any error in spelling the caste as Munurvar ought to have been overlooked. These being the errors apparent on the face of record, the judgment and order be reviewed.

6. Per contra, the learned AGP would submit that there is no error apparent on the face of the record. After considering all the facts and circumstances and material considered by the scrutiny committee, this Court had merely observed that the decision of the scrutiny committee that was under challenge was based on plausible appreciation of all the facts and circumstances. The decision was not solely based on the school record of Mohandas. It was expressly observed that the burden to substantiate the claim was resting on the petitioner who had failed to discharge it by leading cogent and convincing evidence. She would, therefore, submit that the review application be rejected.

7. We have considered the rival submission and perused the record of the writ petition.

8. At the outset, one needs to emphasize the fact that the extra-ordinary power of undertaking a review has been sought to be invoked, which has inherent limitations. It is trite that a review is possible only if necessary parameters can be made out demonstrating some error apparent on the face of the record. If the Court is required to undertake elaborate reconsideration of the entire material, that would be beyond the purview of the power of review.

9. Bearing in mind the afore-mentioned parameters, the entire judgment and order under review would clearly demonstrate that the decision was not merely based on the basic grievance of the petitioner that Mohandas was not in his blood relationship and his contrary school record mentioning him as Munurvar was not the only reason on which the decision was based. Ex facie, it will not turn on anything much less as desired by the petitioner.

10. As can be noticed, in paragraph no. 13 of the judgment and order under review, we had expressly observed that the burden to establish the claim was resting on the petitioner and even the school record of the year 1979 of other blood relatives on which he was relying upon were also not emphatic and convincing. While appreciating a similar submission of Mr. Barlinge in respect of the spelling mistakes that if it was a human error, there was nothing to demonstrate and to draw inference that what was really meant while

recording the entry was Mannervarlu, when there are several castes from other backward category with a similarity in the name viz. Munnurvar, Munnur, Munnurvar Telgu, Munnurwad. We had thus clearly demonstrated that the attempt of the petitioner to rely upon the school record of the blood relatives, apart from Mohandas, were describing these relatives as Munerwarlu which could not have been interpreted to mean Mannervarlu instead and it was a human error in mis-spelling it.

11. It is thus quite evident that accepting the stand of the petitioner and the submission of Mr. Barlinge that Mohandas was not related to petitioner by blood and no inference was deducible by referring to his contrary school record, we had expressly demonstrated that petitioner had failed to discharge the burden to substantiate his claim.

12. Apparently, as was observed by us in the judgment and order under review, only the recent school record of blood relations of the year 1979 onwards was only being relied upon by the petitioner and if that be so, he having failed to lead cogent and convincing evidence substantiating his claim, the observations and the conclusions drawn by the scrutiny committee were based on plausible appreciation of the evidence and we could not have interfered with it in exercise of the powers under Article 226 of the Constitution of India.

13. The review application is rejected.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/