



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

WRIT PETITION NO.10702 OF 2019

Tanuja D/o Jairam Mitke,
Age 25 years, Occupation : Education,
R/o Shivangaon, Taluka Umri, District Nanded,
At present resident of Nandigram
Housing Society, Shardanagar,
Near Hanuman Mandir, Nanded,
Taluka and District Nanded 431 605.

..Petitioner

Versus

1. The State of Maharashtra,
Through the Principal Secretary,
Tribal Development Department,
Mantralaya, Mumbai.
2. The Scheduled Tribe Certificate Scrutiny Committee,
Aurangabad Division, Aurangabad
Through its Member Secretary,
Having office near Saint Lawrence School,
Town Centre, CIDCO, Aurangabad.
3. The Sub Divisional Officer, Dharmabad,
District Nanded.
4. The Principal,
Walchand College of Engineering, Sangli,
Vishrambag, Sangli – 416 515. ..Respondents.

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Mr. S. B. Patil, Advocate for the Petitioner.

Mr. P. S. Patil, Addl. GP for Respondent Nos.1 to 3.

Mr. A. A. Deshmukh, Advocate for Respondent No.4.

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

DATED : 07th FEBRUARY, 2024.

JUDGMENT (Per: S. G. Chapalgaonkar, J.):

1. Rule. Rule made returnable forthwith. With the consent of the parties, matter is taken up for final hearing at the stage of admission.

2. The petitioner approaches this Court under Article 226 of the Constitution of India impugning order dated 26.07.2019 passed by respondent no.2-Scheduled Tribe Certificate Scrutiny Committee, Aurangabad Division, Aurangabad thereby invalidating tribe claim of the petitioner as belonging to '*Mannervarlu*', Scheduled Tribe.

3. Mr. S. B. Patil, learned Advocate appearing for the petitioner submits that the petitioner belongs to the '*Mannervarlu*', Scheduled Tribe. The competent authority i.e. Sub Divisional Officer, Nanded issued her tribe certificate as belonging to '*Mannervarlu*', Scheduled Tribe. The petitioner's claim was forwarded to the Committee for verification. The Committee solicited vigilance enquiry report. The Research Officer had interviewed the father of the petitioner on the point of trite and customs. The petitioner supported her tribe claim by the validity certificate granted in favour of her real brother Tushar Jairam Mitke and many other documents pertaining to the school record of her paternal blood relations. However, the Committee invalidated tribe claim recording erroneous reasons. Mr. Patil would further submit that recently, petitioner's father Jairam Venkatrao Mitake has been granted caste validity vide order dated 19.08.2023 passed by this Court in Writ Petition No.7490/2021.

4. The learned Addl. G.P. however, opposes prayer on the ground that the Committee has recorded adequate reasons while rejecting the tribe claim of the petitioner. So far as the validity issued in favour of the petitioner's father under order of this Court is concerned, learned Addl. G.P. submits that probably the contra material was not brought to the notice of this Court. Therefore, such an order would not assist the petitioner in seeking validity of Tribe certificate.

5. We have considered the submissions advanced by the learned Advocates appearing for the respective parties. We have perused the original record. It is not in dispute that the petitioner's real brother Tushar Jairam Mitke is already conferred with the tribe validity certificate dated 05.09.2008. The said certificate is intact as on the date. The Committee has neither issued any show cause notice nor the certificate is recalled. Perusal of the reasoning adopted by the Committee shows that the aforesaid important evidence has been discarded only on the ground that some contra entries, which have been now surfaced were not brought to the notice of the Committee while prosecuting the tribe claim of Tushar Jairam Mitke, real brother of the petitioner. Apparently, there is no observation that Tushar Jairam Mitke was aware about such contra material and he has intentionally suppressed the same from committee. In short, there are no allegations of misrepresentation or fraud against Tushar Jairam Mitke during the process of validation of his tribe claim.

6. Pertinently father of the petitioner has been conferred with the tribe validity certificate in terms of the order passed by this Court in Writ Petition No.7490/2021. The learned Addl. G.P. confirms that the said order is not subjected to review before this Court or Appeal before the Supreme Court of India till this date. In this background, we do not find any reason to dislodge the tribe claim of the petitioner. This Court while allowing Writ Petition No.7490/2021 made following observations:-

“4. Admittedly, in writ petition no. 2937 of 2019 – Ragini Vasant Mitke who happens to be the distant cousin of the petitioner – Shriniwas and Suhasini from the paternal side has been granted certificate of validity by order of this Court. Similarly, Ragini's real cousin Shraddha and distant cousin Rahul Hanumant have also been granted certificate of validity by the order of this Court passed in writ petition no. 9590 of 2023. Rutuja who is the real sister of Shraddha has already been granted certificate of validity by the order of this Court in writ

petition no. 5857 of 2019. Apart from these many certificates of validity granted to the blood relations by the order of this Court, even the real uncle of petitioners – Shriniwas and Suhasini by name Bapurao Maruti Mitke and his three daughters Smita, Savita and Bhagyashri and son Sandip have been granted certificates of validity. Besides, the petitioner – Jayram's son Tushar is real brother Ashok, Ashok's son – Manoj, another real brother – Vasant, his son Akshay, uncle of Rahul Hanumant by name Suresh Digambarrao and Sanjay Digambarrao have been granted certificates of validity. It is trite that if there is no dispute about the genealogy, a person is entitled to derive the benefit of the certificates of validity of the blood relations.

5. *It is to be noted that this Court had granted certificates of validity to the afore-mentioned some of the individuals subject to a condition that those validities would depend upon the outcome of the matters which the committee had intended to re-open in respect of the validity holders which according to it were obtained by practising fraud."*

7. In aforesaid backdrop we are further guided by the observations of this court in case of ***Apoorva Nichale Vs. Divisional Caste Scrutiny Committee***¹, which are as under:

"The matters pertaining to validity of caste have a great impact on the candidate as well as on the future generations in many matters varying from marriage to education and enjoyment, and therefore where a committee has given a finding about the validity of the caste of a candidate another committee ought not to refuse the same status to a blood relative who applies. A merely different view on the same facts would not entitle the committee dealing with the subsequent caste claim to reject it. There is, however, no doubt as observed by us earlier that if a committee is of the view that the earlier certificate is obtained by fraud it would not be bound to follow the earlier caste validity certificate and is entitled to refuse the caste claim and also in addition initiate proceedings for cancellation of the earlier order."

8. If facts of present case are examined in light of aforesaid observations, we do not find the element of fraud has been observed by committee in the matter of Validity granted to Father and Real brother of petitioner. Hence we would follow the same course and proceed to pass the following order:

¹ 2010 (6) Mh. L.J. 401.

ORDER

- a. Writ Petition is partly allowed.
- b. The impugned order 26.07.2019 passed by respondent no.2-Scheduled Tribe Certificate Scrutiny Committee, Aurangabad Division, Aurangabad is hereby quashed and set aside.
- c. The respondent no.2–Scrutiny Committee shall immediately issue tribe validity certificate to the petitioner as belonging to ‘*Mannervarlu*’ Scheduled Tribe strictly in accordance with the format prescribed without adding anything.
- d. This certificate of validity shall be subject to the final outcome of the matters which the scrutiny committee has decided to re-open.
- e. The petitioner shall not be entitled to claim equities.
- f. Writ Petition is disposed of.
- g. Rule is made absolute in above terms.

(S. G. CHAPALGAONKAR)
JUDGE

(SMT. VIBHA KANKANWADI)
JUDGE