



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.512 OF 2022

Ishwari d/o Shivaji Gadewad,
age 19 years, Occ. Education,
R/o Sonna, Tq. Parbhani,
Dist. Parbhani.

Petitioner.

Versus

1. The State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai.
2. The Scheduled Tribe Caste Certificate
Verification Committee, Aurangabad
Through its Dy. Director (R),
Aurangabad. Respondents.
3. The Commissioner & Competent Authority,
Commissioner-ate of Common Entrance Test
Cell, Government of Maharashtra. **..Deleted**

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Mr. S.M. Vibhute, advocate for petitioner.
Mr. A.M. Phule, AGP for respondent Nos. 1 and 2.
Respondent No.3- deleted.

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

Reserved on : March 19th, 2024

Decided on : March 27, 2024

FINAL ORDER :- (Per S.G. Chapalgaonkar, J.)

1. The petitioner approached this Court under Article
226 of the Constitution of India impugning the order dated

12.11.2021 passed by the Scheduled Caste Certificate Verification Committee, Aurangabad- Respondent no.2 invalidating tribe claim of the petitioner for 'Mannervarlu' Scheduled Tribe. The petitioner contend that she belongs to 'Mannervarlu' Scheduled Tribe. The competent authority has issued tribe certificate dated 28.3.2011 in her favour. It was referred to the Respondent no.2-Committee for verification. The petitioner relied upon validity certificates issued to cousin brother namely Balasaheb Manikrao Gadewad and Munjaji Uttamrao Gadewad dated 30.7.2005 and 24.12.2008 respectively. Petitioner has replied the Vigilance Cell report and explained adverse remarks. However, the Committee invalidated her Tribe claim for erroneous reasons.

2. Mr. Vibhute, learned advocate appearing for the petitioner would submit that the Committee negated petitioner's claim mainly for the reason that the claim of Surekha Sambhaji Gadewad and Sangita Sambhaji Gadewad has been invalidated, however, they are not the blood relatives or family members of the petitioner. Such an observation of the Committee is based on no material. The second reason given by the Committee is regarding adverse entries in the school record of the petitioner's blood relations, however, those are duly explained in the reply given to the Vigilance Cell report.

3. Mr. Vibhute, would further urge that the reasons regarding area restriction or affinity test would not germane in facts of the present case when the petitioner placed her

reliance on two validities already conferred on blood relations of the petitioner. Mr. Vibhute would further submit that this Court, in **Writ Petition no.14310 of 2021, filed by Rajesh s/o Machindra Gadewad Vs. The State of Maharashtra and others**, who is one of the applicant in the impugned order, set aside the order of the Committee and directed issuance of validity certificate in his favour. The petitioner, is therefore, entitled for similar treatment.

4. Mr. A.M. Phule, the learned AGP appearing for respondent nos.1 and 2 supports the impugned judgment and order of the Committee. He would submit that the School entry in respect of Manik Vithoba Gadewad and Sudam Bhaguji Gadewad records their caste as 'Maratha'. Explanation tendered by the petitioner that such entries were recorded by school authorities under misconception of fact is not acceptable. Mr. Phule, points out that in the year 2004 and 2007 Tribe claims of Surekha Gadewad and Sangeeta Gadewad have been invalidated by the Committee. However, these material facts were concealed by the petitioner. The petitioner's claim is not supported by any pre-constitutional document. The Committee has recorded adequate reasons. The decision of the Committee need not be interfered in writ jurisdiction.

5. We have considered the submissions advanced on behalf of the learned advocates appearing for the respective parties. We have perused the record tendered alongwith the writ petition. The original record of the Committee is made

available for perusal. We have gone through the documents available in original file. The genealogy signed by Rajesh Machindra Gadewad and Machindra Vithoba Gadewad, as verified by the Vigilance Officer is on record. It is not disputed that Balasaheb Manikrao Gadewad, Munjaji Uttamrao Gadewad are second cousins of petitioner.

6. The great grand-father of the petitioner Gyanaji Gadewad had four sons and one daughter. The validity holders are from the branch of Vithoba and petitioner is from the branch of Bhaguji. The claim of the petitioner and claim of one Rajesh are decided by common order by the Committee. The relation between petitioner and Rajesh is not in dispute. This Court in writ petition no.14310 of 2021 filed by Rajesh Machindra Gadewad set aside order of the Committee and directed issuance of Tribe validity in favour of Rajesh. This Court dealt with similar submissions advanced on behalf of the learned AGP and concluded that as long as validities issued in favour of Balasaheb and Munjaji, who are paternal blood relatives of the petitioner is intact, there is no reason to decline benefit of their validity certificates in favour of the petitioner. This Court has also observed that invalidation of claim of Surekha/ Manjushri would not be an impediment as long as the subsequent validities issued by the Committee subsists. In light of the observations of this court in Writ Petition no.14310 of 2021 in the matter of Rajesh, we have no reason to take different view while dealing with the claim of petitioner. Resultantly, we proceed to adopt the similar stand and extend

similar benefit to the petitioner. Hence, we proceed to pass the following order.

ORDER

- i. The writ petition is partly allowed.
- ii. The impugned order is quashed and set aside.
- iii. The Scrutiny Committee shall immediately issue certificates of validity to the petitioner of 'Mannervarlu Scheduled Tribe'. The validity would depend upon the final outcome of the matters which the Committee has decided to re-open.
- iv. The petitioner and his relations shall co-operate the Committee in early decision of the reopened matters.
- v. The petitioner shall not be entitled to claim equities.
- vi. Writ Petition accordingly disposed off. No costs.

(S. G. CHAPALGAONKAR, J.) (SMT. VIBHA KANKANWADI, J.)

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