



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 2628 OF 2018

Ku. Arti d/o Narsingh Rao Tupparwar
 Aged : 52 years, Occ. : Service,
 R/o. : In front of Swastik School,
 Naya Nakasha, Nagpur – 16

} .. **Petitioner**

Versus

1. The Schedule Tribe Caste Certificate Scrutiny Committee,
 Adiwasia Vikas Bhawan,
 Giripeth, Nagpur, Tq. & Dist. Nagpur
 through its Member
2. The Municipal Corporation, Nagpur
 through its Commissioner,
 Civil Lines, Nagpur
3. The State of Maharashtra,
 Through its Secretary,
 Department of Tribal Development
 Mantralaya, Fort, Mumbai – 400 032

} .. **Respondents**

Ms. Apurva Kolhe, Advocate for petitioner.
 Mr. A.M.Ghogre, AGP for respondent Nos.1 & 3.
 Mr. A.M.Kukday, Advocate for respondent No.2.

CORAM : NITIN W. SAMBRE AND
ABHAY J. MANTRI, JJ.

DATED : JANUARY 30, 2024.

ORAL JUDGMENT (Per Court : Nitin W. Sambre, J.)

Rule. Rule is made returnable forthwith. Heard finally by the consent of the learned counsel appearing for the parties.

(2) The impugned order dated 13/03/2018, the tribe claim of the petitioner as that of she belonging to "Mannewar" (Schedule Tribe) came to be rejected, as such this petition.

(3) Amongst other, the submissions of the learned counsel for the petitioner are that the entries in the caste column in relation to the petitioner of 1987, 1979 and 1975, particularly in relation to the School documents speaks that she belonging to "Mannewar" caste (Schedule Tribe). According to her, the petitioner has produced on record documents in relation to father and uncle which depicts entry of "Hinduism", "Mannewar" etc. That being so, the contentions are since "Telugu" is not a caste, but a language and the "Mannewar" entry speaks of the petitioner belonging to Scheduled Tribe, the Committee has erred in recording a finding that petitioner does not belong to "Mannewar" (Schedule Tribe). Her next contention is that the Committee without recording any finding on the issue of satisfaction of affinity test as to the manner and mode in which the petitioner has failed to satisfy the same, has rejected the claim of the petitioner.

(4) So as to substantiate the aforesaid contentions, the counsel for the petitioner would urge that the entry "Telanga" in relation to Laxmanrao, the cousin grandfather is of the year 1945. According to her, the entry "Telanga" has to be read as "Telugu" or in

alternate, even if, it is accepted that "Telanga" is an entry carried out in the year 2014 in "Nomadic Tribes-C" category, the Court is required to consider the claim of the petitioner as was existing on the date when the caste certificate was issued.

(5) She would further claim that the Committee has ignored the law laid down by the Apex Court in the matter of **State of Maharashtra vs. Ravi Prakash Babulalsing Parmar and another reported in 2007 (1) SCC 80**. She would urge that from the aforesaid judgment, it is amply clear that even if, there are no documents of Pre-Independence era, still the petitioner can lodge a claim for issuance of validity certificate. In addition, her contentions are – the Committee should have traveled extra mile, thereby looking it to the caste of the petitioner as that of belonging to "Mannewar" (Schedule Tribe) and should have granted the claim as prayed.

(6) As against above, the contentions of the Assistant Government Pleader are – the documents, the entries as are found in the records of the petitioner or her relatives are required to be interpreted, as it is and the Committee is not empowered to interpret the entries. According to him, the entry "Telanga" which is recognized as the "Nomadic Tribe-C", the "Telugu Reddy" being an independent caste cannot support the claim of the petitioner.

(7) It is further claimed that "Telugu" being a language, even if is taken into account, that by itself will not give leverage to the petitioner to claim that she belongs to "Mannewar", (Scheduled Tribe). That being so, a prayer is made for rejection of the petition.

(8) We have appreciated the submissions. The fact remains that petitioner has already superannuated from the service. The petitioner so as to substantiate her claim, has relied upon the entries as reflected in her own records viz. the certificate issued by the Mannewar Samaj on 15/10/1979, the entry "Telugu" in relation to herself in the School Leaving Certificate of 1971, the entry "Mannewar", (Scheduled Tribe) of 1975 in relation to herself in School Leaving Certificate. In addition to above, she has also relied upon the Service Book of her father and the School Leaving certificate of July, 1950, which records Hinduism in the caste column. Apart from above, in the School record of the cousin uncle Chandrabhushan, the caste is claimed to be recorded as "Mannewar" on 06/06/1973.

(9) Since the Committee found variance in the entries of caste in the various documents pursuant to the provisions of Rule 12 of the Rules, referred the claim to the Vigilance Cell for causing home and field enquiry. The enquiry report was accordingly submitted by Vigilance Cell to which the petitioners submitted her explanation.

(10) The perusal of the documents which are produced by the petitioner in support of tribe claim as that of belonging to "Mannewar", (Scheduled Tribe) is concerned, the fact remains that entry of 1945 in relation to cousin uncle of the petitioner is shown to be "Telanga". "Telanga" is an independent entry as has been claimed by the petitioner recorded in the Nomadic Tribe order under category – C. Even if such entry is recorded in the year 2014 that itself will not give leverage to the petitioner to claim that on the date of issuance of the caste certificate, the Court is required to adjudicate the claim of the petitioner. The fact remains that the Committee has every right to adjudicate the claim of the petitioner considering the documents which are placed before it. The documents which are of Pre-Independent era have more probative value and can be accepted in evidence. Once the "Telanga" is recorded as an entry in the Nomadic Tribe-C category, the document of the year 1945 in relation to cousin uncle of the petitioner cannot be found to be the basis for issuance of the validity certificate.

(11) Apart from above, the real uncle of the petitioner Shankarrao is concerned, in the School record his caste is recorded as "Telugu Reddy". Even, if it is accepted that "Telugu" is a language as has already been determined by this Court, still the Court cannot be ignored of the fact that the "Reddy" is an independent caste recognized and that being so, the said document cannot be considered for

supporting the case of the petitioner as that of "Mannewar", (Scheduled Tribe). The other entries of the years 1948 and 1952 in relation to uncle Anandrao, and uncle Dharmraj, respectively speaks of "Telugu" and not "Mannewar". Even if "Telugu" is considered to be a language and the said entry is ignored, still this Court or the Committee cannot substitute the said entry to that of "Mannewar" and read the said entry to the benefit of the petitioner, as there are no such powers vested with the Committee or this Court to record such finding.

(12) The only entry which supports the claim of the petitioner is of 1973 in relation to cousin uncle Chandrabhushan. As far as said uncle is concerned, he born to Laxmanrao i.e. cousin grandfather of the petitioner. Laxmanrao's entry as that of "Telanga" recorded in 1945 has already been dealt with by the Court, as could inferred from the finding recorded herein above.

(13) The person gets his caste by birth. Once the entry in the caste column of father of Chandrabhushan, namely, Laxmanrao is recorded as "Telanga" which is an independent caste, the Chandrabhushan owes an explanation including that of petitioner, as to how the "Mannewar" entry in 1973 is carried out in his record. There is no convincing explanation to that effect coming forward from the petitioner.

(14) As such, on the basis of documents which are produced on record in our opinion, the Committee was quite justified in recording finding that the petitioner is not belonging to "Mannewar", (Scheduled Tribe).

(15) As far as the issue of non-satisfaction of affinity test is concerned, the fact remains that in the case in hand, even if the petitioner has placed on record in support of grant of tribe claim of "Mannewar", (Scheduled Tribe), the said documents have not supported the case of the petitioner. The Committee, thereafter, has gone into the issue of applying affinity test and considered the complete information furnished by the petitioner in support of the queries in relation to the affinity test raised during the home enquiry and hearing. The Committee in tabular form has dealt with the applicability of the affinity test, the custom traditions followed by the petitioner and has recorded a finding that the petitioner cannot be said to be belonging "Mannewar", (Scheduled Tribe). No fault would be noticed in the applicability of the affinity test in case of the petitioner. That being so, no case for causing interference in extraordinary jurisdiction is made out by the petitioner. The Writ Petition stands dismissed. No costs.

[ABHAY J. MANTRI, J.]

[NITIN W. SAMBRE, J.]

KOLHE