



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO.3304 OF 2022

Kranti D/o Shivdas Pentewad,  
Age : 19 years, Occu. Education,  
R/o At post Mangrul, Tq. Himayatnagar,  
District Nanded ..PETITIONER

VERSUS

1. The State of Maharashtra,  
Through the Secretary,  
Tribal Development Department,  
Mantralaya, Mumbai – 32
2. The Member Secretary Deputy Director,  
Scheduled Tribe Certificate Scrutiny Committee,  
Kinwat, Dist. Nanded, Head office  
at Aurangabad
3. The Commissioner & Competent Authority,  
Commissionerate of Common Entrance  
Test Cell, Government of Maharashtra,  
8<sup>th</sup> Floor, New Excelsior Building,  
A.K. Naik Marg, Fort, Mumbai
4. The Sub-Divisional Magistrate,  
Hadgaon, Tq. Himayatnagar,  
Dist. Nanded ..RESPONDENTS

Mr. U.P. Giri along with Ms. S.L. Puri, Advocate for petitioner;  
Mr. S.P. Tiwari, A.G.P. for respondent nos.1, 2 & 4

CORAM : R.D. DHANUKA  
AND  
S. G. MEHARE, JJ.

DATE : 14<sup>th</sup> March, 2022

ORAL JUDGMENT (Per S.G. Mehare, J.)

1. Rule. Learned A.G.P. for the respondents waives service.

Rule made returnable forthwith. By the consent of the parties heard finally.

2. Petitioner's claim of "Mannerwarlu"-Scheduled Tribe based on the blood relations has been rejected by respondent no.2, by its order dated 18.2.2022. Hence, she approached this Court.

3. The petitioner is pursuing NEET-UG-2021. The Government of Maharashtra State Common Entrance Test Cell has published a notice dated 7.3.2022 of second selection list for State quota seats of M.B.B.S./B.D.S. courses for academic year 2021-22. The petitioner has been selected for B.D.S., however, she has to submit her tribe validity certificate today by 5.00 p.m.

4. Learned Counsel for the petitioner has submitted that respondent no.2 committed error of law ignoring the caste validity of the blood relations of the petitioner. The certificate of blood relations are yet not cancelled. The law is well settled that once the tribe validity is granted to the blood relative, it is unjust to invalidate the claim of the descendants. Respondent no.2 has erred in not considering this settled position of law and abruptly recorded a finding that the tribe validity of a blood relative was obtained by suppressing the facts from the Committee. He also added that the allegation of adding word "lu" at the last of the caste of the petitioner

was not under her control. The said documents were not in the custody of the petitioner nor her family members. The petitioner has explained that the so called interpolation by adding word “lu” is not done by her and she is not aware who has added the word “lu”. The Vigilance Committee never suspected the petitioner. However, respondent no.2, on surmises, blamed the petitioner for alleged interpolation. The tribe entries of her cousin uncle dated 25.9.1989 and 9.7.1984 are the natural entries. These are also the old entries. However, respondent no.2 has ignored this natural evidence. He also argued that the affinity test is not the litmus test to determine the tribe validity. To bolster his argument, he relied on the case of **Apoorva d/o Vinay Nichale vs. Divisional Caste Scrutiny Committee & ors.** 2006 (6) Mh.L.J. 401. He also relied on case of **Sayanna vs. State of Maharashtra & ors., (2009) 10 SCC 268.** He lastly argued that the impugned order is without application of mind and the settled law. Hence, petition may be allowed.

5. The learned A.G.P strongly opposed the petition contending that the tribe validity certificates of the blood relatives have been obtained by suppressing the fact and without Vigilance Inquiry. *Prima facie* it is evident from the record that the word “lu” was added at the end of their caste. The petitioner and her relatives were well aware of such interpolation.

6. The explanation given by the petitioner is not satisfactory. Show cause notices to her blood relatives having tribe validity have already been issued. The documents relied upon by the petitioners are suspicious, hence, the impugned order is legal and correct.

7. The law relating to the probative value of caste validity of blood relative is settled. A Co-ordinate Bench of this Court in Writ Petition No.8341 of 2021 & 4996 of 2021, decided on 20.10.2021 and 13.12.2021, respectively, has observed in paragraph 5 in Writ Petition No.8341 of 2021 as under:-

“5. Once this Court has granted validity to real sister and brother of the petitioner and the real uncle of the petitioner no.1, it was unjust on the part of the respondent Committee to invalidate. All the petitioners are paternal relatives of each other. The respondent Committee could not have taken a different view and sat over the judgment of this Court.”

8. This Court has taken a view in catena of judgments that unless the caste validity of blood relative based on which the validity claims are cancelled by the Caste Scrutiny Committee, such validity certificate cannot be ignored while considering the validity claim of other relatives. In other words, it is the law laid down by this Court that the tribe validity issued by the Competent Scrutiny Committee has the probative value, unless it is cancelled by the Committee. In this case, the

petitioner relied on the validity of her blood relative. Barely a show cause notice is issued to them. Unless the tribe validity of the blood relatives of the petitioner are cancelled, it would be improper on the part of the Scrutiny Committee – respondent no.2 to discard such probative evidence.

9. So far as the allegations of interpolation of document are concerned, the Honourable Apex Court in the case of Sayanna (supra) has observed in para nos.13 and 14 as follows:-

13. “What is relevant to notice is that in the report dated 1.12.2003 the Police Inspector has merely stated as a matter of fact that the word “lu” was subsequently added while recording the caste of the appellant as “Mannerwarlu” in the school register. The Police Inspector had not stated that the word “lu” was interpolated by the appellant. There is every possibility that the word “lu” was not mentioned at the time of recording of the caste of the appellant and on being pointed out the correct spelling of caste, the word “lu” was added. Addition of word “lu” subsequently would not lead to an irresistible conclusion that the said word was added by the appellant or at his behest.”

14. It is difficult for this Court to understand as to on which basis the Scrutiny Committee came to the conclusion that the word “lu” was interpolated in the register of the school. More particularly when it was not so opined by the Police Inspector who had conducted the enquiry. Whether interpolation by addition has

taken place can be stated by a handwriting expert or by comparison of admitted letters of a person with this disputed one. It is an admitted position that the Scrutiny Committee had never attempted to get an expert's opinion nor itself had compared the disputed letters with admitted one of the appellant.”

10. The observations in the case cited supra are clear that there shall be evidence of interpolation at the behest of the applicant and the Committee shall get an expert's opinion or compare the disputed letters with the admitted handwriting of the petitioner. Nothing appears to have been done as such by respondent no.2 in this case. Barely issuing show cause notice to the blood relatives shall not be the reason to discard the probative evidence.

11. In the facts and circumstances of the case, we are of the opinion that the petitioner is entitled to a conditional tribe validity certificate.

12. Hence, Writ Petition is allowed in terms of prayer clauses “B” and “C”.

It is made clear that the certificate that would be issued by respondent No.2-Committee would be subject to the outcome of the show cause notices issued by respondent No.2-Committee to Pentewad Dnyaneshwar Vitthalrao and Pentewad Indira, which are pending before respondent No.2-Committee.

It is made clear that the petitioner would not claim any equity in case the show cause notices issued against those two persons culminate into an order of recall of the caste validity certificates which were issued in their favour whose caste certificates have been relied upon by the petitioner in this case.

Respondent No.2-Committee is directed to issue Caste Validity Certificate declaring that the petitioner's caste is "Mannervalu" Scheduled Tribe Serial No.27 in favour of the petitioner forthwith.

Rule is made absolute in above terms. No order as to costs.

Learned AGP is directed to communicate the order to respondent No.2-Committee forthwith.

**(S. G. MEHARE, J.)**

**(R.D. DHANUKA, J.)**

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