



WP 2318-22



1

Judgment

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 2318/2022

Gajendra Uttamrao Harshe,
Aged about 40 years, Occ. Service,
R/o Manik Niwas, Badnera Road, Namuna, Amravati.

PETITIONER

.....VERSUS.....

1. The State of Maharashtra, through its
Principal Secretary, Tribal Development
Department, Mantralaya, Mumbai – 32.
2. The Scheduled Tribe Certificate Scrutiny
Committee, Amravati Division, Amravati,
Through its Deputy Director and Member-
Secretary having office at Ervine Chowk, Amravati.
3. Amravati Municipal Corporation, Amravati,
Through its Commissioner, Amravati.

RESPONDENTS

Shri A.I. Sheikh, counsel for the petitioner.
Mrs. K.S. Joshi, In-Charge Government Pleader for the respondent nos.1 and 2.

CORAM : A. S. CHANDURKAR AND URMILA JOSHI-PHALKE, JJ.

DATE : 13TH JUNE, 2022.

ORAL JUDGMENT (PER : A.S. CHANDURKAR, J.)

RULE. Rule made returnable forthwith and heard the learned
counsel for the parties.

2. The challenge raised in this writ petition is to the order dated
15.09.2021 passed by the Scrutiny Committee invalidating the
petitioner's claim of belonging to 'Mannewar' Scheduled Tribe.

3. At the outset, the learned counsel for the petitioner submits that the impugned order decided two claims; one of the petitioner and another of his aunt Ku. Madhuri Chandrakant Harshe. The petitioner's aunt had challenged the aforesaid order dated 15.09.2021 in Writ Petition No.1989 of 2022 and by the judgment dated 21.04.2022 this Court after referring to an old entry dated 25.03.1935 alongwith other entries prior to the year 1950 concluded that the petitioner therein had established her claim of belonging to 'Mannewar' Scheduled Tribe. He therefore submits that since the petitioner herein is relying upon the very same document that was considered in Writ Petition No.1989 of 2022, similar order deserves to be passed.

4. The learned In-Charge Government Pleader for the respondent nos.1 and 2 submits that reference has been made by this Court to the decision of the Hon'ble Supreme Court in *Anand Versus Committee for Scrutiny and Verification of Tribe Claims & Others* [(2012) 1 SCC 113] while allowing the earlier writ petition. The Hon'ble Supreme Court has referred the issue with regard to the weightage to be given to the affinity test to a Larger Bench and hence the Court may await the adjudication of the same.

5. We find that the impugned order passed by the Scrutiny Committee was a common order and after considering the very same

document on which the petitioner herein relies, the impugned order has been set aside. Though the order of reference was available when Writ Petition No.1989 of 2022 was decided, the Scrutiny Committee did not rely upon the same. Therefore, it would not be permissible to take a different view on the consideration of the very same document which was considered in the earlier writ petition. Hence, for the reasons assigned in the judgment dated 21.04.2022 in Writ Petition No.1989 of 2022, the following order is passed:-

- (I) Writ petition is allowed. Order dated 15.09.2021 passed by the Scheduled Tribe Certificate Scrutiny Committee, Amravati Division, Amravati is hereby quashed and set aside.
- (II) The petitioner's claim for 'Mannewar' Scheduled Tribe, which is an entry at Serial Number 18 of the Constitution (Scheduled Tribes) Order, 1950, is held to be valid. The Committee is accordingly directed to issue a Caste Validity Certificate in the petitioner's name within one month from the date of receipt of this order.

6. Rule is made absolute in aforesaid terms. No costs.

(URMILA JOSHI-PHALKE, J.)

(A.S. CHANDURKAR, J.)

APTE