

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO.8204 OF 2020

Avinash S/o Kisanrao Ambatwad  
Age 19 years, Occu. Student,  
R/o. Vilegaon, Taluka Dharmabad,  
District Nanded.

... Petitioner.

Versus

1. The State of Maharashtra  
Through its Secretary,  
Tribal Development Department  
Mantralaya, Mumbai -32
2. The Scheduled Tribe Certificate  
Scrutiny Committee, Aurangabad  
Division, Aurangabad through  
its member Secretary
3. The Sub Divisional Officer,  
Dharmabad, District Nanded
4. The Senior Director,  
National Eligibility Cum Entrance  
Test (UG 2020)  
C-20, 1-A/8, Sector 62,  
Gautam Budh Nagar, ITK,  
Outreach Centre, NOIDA.
5. The Director,  
Medical Education and Research  
Govt. Dental College and Hospital,  
Building, St. Gorge's Hospital  
Compound, Near V.T.  
Mumbai, Maharashtra 400 001.
6. The Competent Authority &  
Commissioner, State Common Entrance

Test Cell, Excelsior, Theater Building  
AK Nayak Marg, Azad Maidan, Fort,  
Mumbai, Maharashtra 400 001.

7. The Govt. Medical College,  
Miraj, District Sangali  
Through its Dean.

... Respondents.

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Mr. M.A. Golegaonkar, Advocate for the Petitioner.  
Mr. K.N. Lokhande, A.G.P. for Respondent Nos.1 to 3.  
Mr. M.D. Narwadkar, Advocate for Respondent No.6.

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**CORAM : S.V. GANGAPURWALA AND  
SHRIKANT D. KULKARNI, JJ.**

**DATE : 14<sup>th</sup> DECEMBER, 2020**

**ORAL JUDGMENT (PER S.V.GANGAPURWALA, J.) :-**

1. Rule. Rule made returnable forthwith. With the consent of parties, matter is taken up for final hearing.
2. The caste claim of the petitioner as 'Mannervarlu' Scheduled tribe is invalidated.
3. Mr. Golegaonkar, the learned counsel for the petitioner submits that the real brother of the petitioner is issued with the validity certificate under the orders of this Court at its principal seat at Bombay in Writ Petition No.10515 of 2017 dated 28.09.2017. The daughter of real uncle of the petitioner namely Gayatri D/o Shivaji

Ambatwad is issued with the validity under the order of this Court dated 05.07.2019 in Writ Petition No.4892 of 2019. The learned counsel submits that all the documents that are the subject matter of consideration before the committee in the instant case were also the subject matter before the High Court at the principal seat and before this Court in the case of real brother of the petitioner and real uncle's daughter.

4. The learned A.G.P. submits that the petitioner has suppressed the invalidation of their parental relative namely Sadashiv and another parental relative Parsaram Rajanna. In view of that the judgment delivered by this Court is not considered by the committee. The learned A.G.P. further submits that the petitioner has failed to prove affinity test. There are contra entries in the school record of the parental relatives of the petitioner and in the school record of the cousin aunt also. The entries of the caste in the school record of the real aunt of the petitioner namely Kamal D/o Bhujangrao and uncle Bhagwanrao S/o.Bhugangrao are manipulated.

5. We have considered the submissions.

6. It is the matter of record that the caste claim of the real brother of the petitioner namely Govind Kishanrao Ambatwad was invalidated

by the committee. The said Govind filed a writ petition before the principal seat at Bombay bearing writ petition No. 10515 of 2017. The Division Bench at Bombay under judgment and order dated 28.09.2017, set aside the judgment of the scrutiny committee and directed the committee to issue caste certificate to Govenit Kishanrao Ambatwad. Similarly, the daughter of real uncle of the petitioner namely Gayatri D/o Shivaji Ambatwad was also denied validity by the scrutiny committee. He filed a writ petition bearing No.4892 of 2019. This Court allowed the writ petition under order dated 05.07.2019 directing the committee to issue validity certificate to Gayatri.

7. It is submitted that all the entries that are the subject matter of consideration before the committee in the instant case were also the subject matter before the High Court at the principal seat and before this Court in the case of real brother of the petitioner and real uncle's daughter.

8. In writ petition no.4892 of 2019, we have observed thus :

“5. All these documents referred to in the present case were also subject matter of consideration in validation proceeding of Govind Kishanrao Ambatwad, the son of the real paternal uncle of the petitioner. His claim was also invalidated. This Court at its Principal

Seat at Bombay in Writ Petition No. 10515 of 2017 under order dated September 28, 2017 set aside judgment of the Committee invalidating tribe claim of Govind Kishanrao Ambatwad and directed to issue validity certificate in favour of Govind Kishanrao Ambatwad. According to the learned counsel, the pre independence document will have more probative value. Pahani patrak of the year 1930 (1340 Fasli) in the name of great grandfather of the petitioner namely Rajanna refers tribe as Mannervarlu. Even school record of the petitioner, her father, brother, uncle record their tribe as Mannervarlu.

6. It is held by the Apex Court in a case of **Anand Vs. Committee for Scrutiny and Verification of Tribe Claim and others** reported in **2012(1) SCC 113** that the affinity test is not the litmus test.

7. Considering all aforesaid aspects of the matter, impugned judgment and order of the Committee is quashed and set aside. The Scrutiny Committee shall issue validity certificate to the petitioner of "Mannervarlu" (Scheduled Tribe) within a period of three (03) days from today."

9. In the light of the above, as real brother and the daughter of the real uncle are issued with the validity certificate of 'Mannervarlu'

under the orders of this Court, the petitioner also deserves to be given the same treatment.

10. The committee shall issue the validity certificate to the petitioner of 'Mannervarlu' Scheduled Tribe, immediately.

11. Rule is made absolute accordingly.

12. The writ petition is disposed of. No costs.

( SHRIKANT D. KULKARNI )  
JUDGE

( S.V. GANGAPURWALA )  
JUDGE

S.P. Rane