

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

Writ Petition No.8197/2022

Vaibhav s/o Premraj Bhandari,
Aged about 21 years, Occ.-Student,
R/o Ashok Nagar, Sadna Chowk, Akot Fail,
Akola, Taluk and District Akola.

.... Petitioner.

Versus

1. State of Maharashtra,
through its Secretary, Tribal Development Department,
Mantralaya, Mumbai- 400 032.
 2. Scheduled Tribe Certificate Scrutiny Committee,
Amravati Division, Amravati through its Member Secretary,
having its office at Near Govt. Guest House,
Near Old Bypass Road, Chaprasipura, Amravati 444602.
 3. The principal,
K.C. College of Engineering Management and Research,
Near Sadguru Garden, Kopri Thane (E),
Thane, Mumbai.
- Respondents.

Mr. G.G. Mishra, Advocate for the petitioner.
Ms. N.P. Mehta, Addl.GP for the respondent nos.1 and 2.

CORAM : Nitin W. Sambre &
Abhay J. Mantri, JJ.

Closed for orders on : 26-03-2024.

Pronounced on : 09-05-2024.

J u d g m e n t : (Per Abhay J Mantri, J.)

Rule. Rule is made returnable forthwith. Heard finally
with the consent of learned Counsel for the parties.

2. The petitioner being aggrieved by the order dated
12-09-2022 passed by respondent no.2- the Scheduled Tribe

Certificate Scrutiny Committee (for short- '*the Scrutiny Committee*'), whereby invalidated the claim of the petitioner that he belongs to '*Mannewar*' Scheduled Tribe'.

3. The petitioner claims to belong to the '*Mannewar*' Scheduled Tribe'. On 08-06-2021, the Sub-Divisional Officer, Akola, granted a caste certificate in his favour. He is prosecuting his B.E. (2nd year) Course in Electronics and Telecommunication under the reserved category of '*Mannewar*' Scheduled Tribe', in respondent no.3-College. The principal of the said College forwarded his caste certificate along with the documents for verification on 18-11-2021 to the respondent no.2 Committee as he was desirous to pursue his higher education in the reserved category.

4. The Committee was of the view that the petitioner's claim is doubtful, therefore they have forwarded the same to Vigilance Cell for enquiry. The Vigilance Cell conducted the enquiry and submitted its report. During the enquiry, adverse entries such as '*Telangi*', '*Te. Mannewar*' and '*Telgu Mannewar*' were noticed, and the petitioner was called upon to submit his explanation about the adverse entries.

5. Pursuant to the notice, on 18-07-2022, the petitioner submitted his explanation before the Committee. Thereafter, he was called for a hearing on 01-06-2022, but he remained absent.

He was again called on 18-07-2022. At that time, he along with his father were present before the Committee and submitted that the explanation tendered by him be treated as his argument. It is also contended that this Court has held that his paternal aunt Vijayalaxmi was eligible for a grant of validity and produced the said order of the Court before it.

6. The extract of documents produced by the petitioner before the Committee is, as under :-

अ. क्र.	कागदपत्राचे स्वरूप	कागदपत्रावरील व्यक्तीचे नाव	जमात	दिनांक	अर्जदाराशी नाते
१	दाखल खारीज रजिष्टर उत्तरा	बालराज लछमय्या	ते. मनेवार	०६.०७.१९४०	आजोबा
२	दाखल खारीज रजिष्टर उत्तरा	कलावती लक्ष्मण	तेलंगी	०९.०७.१९४१	आजी आजोबाची बहिण
३	जन्म नोंद	भिमराज कृष्णैय्या यांना एक मुलगा झाल्याची नोंद	तेलंगी	०१.१२.१९४४	चुलत आजोबा
४	दाखल खारीज रजिष्टर उत्तरा	प्रेमराज बलराज भंडारी	हिंदू तेलगू मन्नेवार	१६.०७.१९७३	वडील

7. After considering the explanation and documents produced before it, the respondent Committee vide impugned order dated 12-09-2022 rejected the tribe claim of the petitioner.

8. Learned Counsel Mr. Mishra for the petitioner vehemently argued that the respondent Committee had not considered the documents produced by the petitioner on record in its proper perspective. The order discloses total non-application of mind by the Committee. The Committee erred in considering the pre-Constitutional era documents of his grandfather and great-great grandfather, wherein their caste is mentioned as '*Mannewar*'. He further argued that the Committee has erred in not considering the judgment dated 23-08-2019 passed by this Court in the case of his paternal aunt Vijayalaxmi while recording a negative finding on issue no.5. Lastly, he submitted that the Committee held that the petitioner has failed to prove affinity test as to the Mannewar. He further tried to propound that the word '*Telugu*' refers to a language and not the caste therefore urging that passing of the impugned order is illegal and liable to be quashed and set aside.

9. As against above, learned Additional Government Pleader Ms. Mehta has opposed the prayer, as according to her, the entries of the years 1940, 1941, and 1944 are of the pre-Constitutional era which speaks of the caste of the ancestors of the petitioner as '*Te.-Mannewar*'. The petitioner failed to explain the said entries. According to her, '*Telangi*' is recognized as the "Nomadic Tribe-C" caste. The said entry being pre-Independence era cannot support the claim of the petitioner.

10. She further claims that 'Telugu' being a language, even if it is taken into account, that by itself will not give leverage to the claim of the petitioner that he belongs to the 'Mannewar' Scheduled Tribe. That being so, she urged that there is enough material to discuss in the order impugned so as to support the finding of invalidation. As such, she has prayed for the dismissal of the petition.

11. We have appreciated the rival contentions of the parties. Perused the impugned order and documents on record.

12. It appears that during the enquiry the Vigilance Cell found four documents having adverse entries to the claim of the petitioner and therefore the Vigilance Cell Officer opined that those entries did not support or prove the claim of the petitioner as he belongs to '*Mannewar*' schedule Tribe.

13. It further appears that in paragraph 4 of the show cause notice dated 01-06-2022, the respondent Committee categorically claimed that the petitioner did not nail about the anomaly regarding the entries about the caste in the documents or while offering the explanation on 18-07-2022 to the said notice. The petitioner has neither denied the said documents nor responded to paragraph 4 of the notice. That being so the adverse entries can be drawn against the petitioner about the existence of those documents.

14. On perusal of those four documents it is evident that some are the entries of the school record as well as from the record of the Municipal Council. The said entries pertain to the grandfather, paternal grandmother, father, and cousin grandfather of the petitioner. The entries pertain to cousin grandfather and paternal grandmother of the year 1940-1941 showing that they belong to the '*Telangi*' caste. The entry of the year 1940 pertains to his grandfather showing that they belong to '*Te-Mannewar*' and the entry pertains to his father of the year 1973 depicts that he belongs to the '*Hindu Telgu Mannewar*' caste. In the family tree, the petitioner has not disputed the relationship of Kalavati i.e. paternal grandmother and his grandfather Balraj.

15. It further reveals that the petitioner in support of his claim has relied on 10 documents, out of them one document dated 09/08/1936 which pertains to his great-great-grandfather. However, the said document was not found during the vigilance Cell enquiry. Moreover, the petitioner failed to produce the certified copy of the said document before the Committee or the Court on which he is relying. Even if assuming that in the year 1936, the document was executed, the other entry depicts the caste of the grandfather of the petitioner as '*Te. Mannewar*' and not as '*Mannewar*'. Thus, it appears that there is an anomaly in the entries of the caste of the ancestors of the petitioners in pre-Constitutional era documents showing that the caste of the ancestors of the petitioner is '*Telangi*' which is recognized as NT-C. The petitioner

failed to explain the said inconsistent entries as to how the said entries were carried out in the school record and Birth and death register. There is no convincing explanation to that effect coming forward from the petitioner.

16. Apart from the above, the entries of the years 1936 and 1940 pertain to his great-great-grandfather and grandfather showing caste entry of '*Telugu Mannewar*' and '*Te.-Mannewar*'. 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 '*Telangi*' is an independent caste. That being so, the said documents cannot be considered for supporting the case of the petitioner as that of '*Mannewar*' (Scheduled Tribe'). The said documents speak of '*Telugu Mannewar*' and not '*Mannewar*'. Therefore, the 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 powers vested with the Committee or this Court to record such finding. Thus, the entries in all pre-Constitutional era documents do not show that the ancestors of the petitioner belong to the '*Mannewar*' caste. Therefore, the finding recorded by the Committee cannot be faulted on the said ground.

17. Secondly, during the hearing before the Court the petitioner has vehemently canvassed that the order of this Court passed in Writ Petition No.5176/2017 has granted validity to

Vijayalaxmi i.e. paternal aunt of the petitioner. Accordingly, the Committee issued a validity certificate in her favour.

18. We have gone through the said judgment wherein, while considering the documents of the years 1936 and 1940 it is observed that "*Apparently, the term 'Telgu' or 'Telangi' prefix to Mannewar indicates the language and not caste*". The said observations itself denote that while recording the same the Court did not take note of the amendment in Government Resolution dated 30-01-2014 that "***Telangi***" has been recognized as '***Nomadic Tribe-C***' which was before passing of the order in the said petition. Said amendment shows that '*Telangi*' is recognized as a separate caste. Therefore, it cannot be said that '*Telangi*' indicates language and not caste. When controverted the said fact to the learned Advocate for the petitioner, he fairly submitted that the aspect of recognition of the '*Telangi*' as a caste has not been dealt with in the said judgment. That being so, it reveals that '***Telangi***' is a caste NT-C and not the language. So also '***Telugu Mannewar***' cannot be termed as 'Mannewar' caste. Thus, in our opinion, the observations made in the said judgment will be of hardly any assistance to the petitioner as the entries in the school record existed before the pre-Constitutional era before bringing into effect of Constitution (Scheduled Caste) Order, 1950 has to be accepted, as having more evidentiary value.

19. As such from the available documentary evidence it cannot be said that the petitioner has discharged his burden as provided under Section 8 of the Maharashtra Scheduled Caste, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes, and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000, thereby proving that he belongs to '*Mannewar*' (Scheduled Tribe').

20. The person gets his caste by birth. Once the entry in the caste column of grandfather and paternal grandmother, cousin grandfather, and grandfather is recorded as '*Telgu Mannewar*', and '*Telangi*', It is to be noted that 'Telangi' is an independent caste. The petitioner owes an explanation, as to how 'Mannewar' entry after 2007 is carried out in the school record. There is no convincing explanation for that effect coming forward from the petitioner.

21. As such, based on the documents that are produced on record, in our opinion, the Committee was quite justified in recording the finding that the petitioner has failed to prove that he belongs to 'Mannewar' (Scheduled Tribe').

22. As far as the issue of non-satisfaction with the affinity test is concerned, the record depicts that the Vigilance Cell has recorded the statement of the father of the petitioner thereby

depicting the customs, traditions, and practices followed by the petitioner and his family members. The father of the petitioner in his statement stated that his mother tongue is Dravidian, but they do not speak Dravidian but speak 'Telugu' language. The petitioner is not aware of the customs, their Gods, and traditional dances. The Committee in tabular form has dealt with the applicability of the affinity test, the customs and traditions followed by the petitioner and has recorded a finding that the petitioner cannot be said to be belonging to '**Mannewar**' (Scheduled Tribe').

23. Having considered the aforesaid discussion and documents on record, there is no reason to disbelieve the documents found by the Vigilance Cell during the enquiry which denotes the caste of paternal grandmother and cousin grandfather of the petitioner is '**Telangi**' and the caste of the father and great-great grandfather as '**Telgu Mannewar**' or '**Te.-Mannewar**'.

24. In this background, in our opinion, the petitioner cannot be said to belong to '**Mannewar**' (Scheduled Tribe') or the observations made in the Writ Petition No.5176/2017 are helpful for him in support of his contention. Rather the Committee, in our opinion, is justified in recording the finding that the petitioner has failed to demonstrate that he belongs to '**Mannewar**' (Scheduled Tribe').

25. That being so, no case for causing interference in extraordinary jurisdiction is made out by the petitioner. As such, there is no substance in the petition and the same stands dismissed. No costs.

26. Rule is discharged.

(Abhay J. Mantri, J.)

(Nitin W. Sambre, J)

Deshmukh