



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

WRIT PETITION NO. 6088 OF 2022

Shri Sunil Umakant Gundekar,
Aged about 53 years,
R/o Sadhana Chowk, Rajguru Marg,
Akot File, Akola – 444 003.

.... **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 Frezarpura,
Amravati.
- 3) Chief Executive Officer,
Zilla Parishad, Akola, District Akola.
- 4) Executive Engineer (Works Division),
Zilla Parishad, Akola, District Akola.

.... **RESPONDENTS**

Mr. A.I. Sheikh, Counsel for the petitioner,
Mr. P.P. Pendke, A.G.P. for respondent Nos.1 and 2,
Mr. U.J. Deshpande, Counsel for respondent Nos.3 and 4.

**CORAM : AVINASH G. GHAROTE &
ABHAY J. MANTRI, JJ.**

DATE : 25-03-2025

JUDGMENT : (Per : ABHAY J. MANTRI, J.)

Heard. **RULE.** Heard finally with the consent of the learned Counsel
for the parties.

2. The petitioner is challenging the order dated 19-09-2022 passed by respondent No.2-Scheduled Tribe Certificate Scrutiny Committee, Amravati (for short- '*the Committee*'), thereby invalidating his caste claim that he belongs to the '*Mannewar*' Scheduled Tribe.

3. The petitioner claims that he belongs to the '*Mannewar*' Scheduled Tribe. On 22-06-1984, the Executive Magistrate, Akola, issued a caste certificate in his favour. Subsequently, he also obtained a fresh caste certificate from the Sub-Divisional Officer, Akola, on 30-04-2015.

4. The petitioner was appointed as a Tracer in the Zilla Parishad, Akola. Since 2004, he has been serving as a Technical Assistant at the Zilla Parishad (Works) Sub-Division, Akola. By letter dated 25-02-2015, for the first time, he was asked to submit a caste certificate. Accordingly, he submitted the caste certificate along with the documents before the Zilla Parishad office and forwarded them to the Committee for verification. Respondent No.2-Committee was dissatisfied with the documents and forwarded the same to the Vigilance Cell for a detailed enquiry. The Vigilance Cell thoroughly enquired into the matter and submitted its report to the Committee on 30-04-2016. It was observed that some adverse entries in Telgu Mannewar, Telgu, and Telang were discovered during the enquiry. Accordingly, the Committee issued a show cause notice and called upon him to explain those adverse entries. Pursuant to

the show cause notice, the petitioner submitted his explanation to the Committee. The Committee, after affording an opportunity of hearing, documents on record, a vigilance cell report, and an explanation, invalidated his claim that he belongs to the '*Mannewar*' Scheduled Tribe. Hence, this petition.

5. Mr. A.I. Shaikh, learned Counsel for the petitioner, vehemently contended that the petitioner, to substantiate his claim, has produced sixteen documents from 1941 to 2015 pertaining to his ancestors wherein their caste has been recorded as Mannewar, Telgu Mannewar. He further canvassed that Telgu is a language and not a caste, so the finding recorded by the Committee by relying upon the Telgu Mannewar entry is not justified. He further argued that the Committee had not considered the said facts and documents on record in its proper perspective and erred in discarding them.

6. To buttress his submissions, he has relied on the decision of this Court dated 03-01-2024 in Writ Petition No.6341/2022 and submitted that in view of the dictum in the said decision, the petitioner has substantiated that he belongs to the '*Mannewar*' Scheduled Tribe. Hence, he urges to allow the petition.

7. As against this, Mr. P.P. Pendke, learned Assistant Government Pleader for respondents No.1 and 2, and Mr. U.J. Deshpande, learned

Counsel for respondents No. 3 and 4, opposed the petition contending that the vigilance cell during the enquiry, discovered the documents pertaining to his ancestors wherein their caste has been recorded as 'Telgu Mannewar' 'Telgu' and 'Telang', therefore, canvassed that the petitioner failed to explain those adverse entries. According to them, the Committee was justified in rejecting the petitioner's claim as it is not open for the Committee to interpret the caste entries and based on the analysis of such evidence and non-satisfaction with the affinity test, the Committee has rightly rejected the petitioner's claim.

8. We have delved into the controversy based on the rival submissions and perused the record and decision relied upon by the learned Counsel for the petitioner. We have also gone through the record and returned it.

9. At the outset, it seems that the Committee, solely based on the entries of Telgu Mannewar, has rejected the petitioner's claim. It is pertinent to note that 'Telgu' is not identified as a caste in any of the statutory provisions of presidential notifications or otherwise. 'Telgu' is an official language spoken by the people in Telangana/Andhra Pradesh and declared in the 8th Schedule appended to the Constitution of India, which itself shows that 'Telgu' is not the caste recognised in any of the public documents which can be said to be other than the scheduled Tribe. In such an eventuality, the Committee's observations that the documents

contain the Tribe entries as 'Telgu' and 'Telgu Mannewar' and cannot be relied on to reject the Tribe claim of the petitioner, cannot be sustained.

10. As against this, the petitioner has produced sixteen documents from 1941 to 2015 pertaining to his ancestors, whose caste has been recorded as 'Mannewar' and 'Telgu Mannewar'. According to those documents, *"apparently, the term 'Telgu' or 'Telangu' prefix to Mannewar indicates the language and not Caste."* The petitioner also produced the documents, i.e., a copy of the birth extract, which indicates that a son was born to his father, Umakant, on 18-11-1941. However, the Committee discarded the said document/ entry on the grounds that it was not found in the revenue record and the discrepancy appears in the date of birth; therefore, the said entry is not relied on. Even if we ignore the said document, the petitioner has produced other documents of the years 1950, 1952, and 1959 pertaining to his cousin's grandfather, cousin's aunt, and uncle, wherein their caste has been recorded as *"Telgu Mannewar"*. As observed above, Telgu is not a caste and indicates language; therefore, it would not be proper to discard the said entry/document on this ground alone.

11. Similarly, during the enquiry, the Vigilance Cell discovered eight documents of the petitioner's ancestors wherein their caste was recorded as Telgu/Telgu Mannewar. As discussed above, 'Telgu' is not a caste and indicates language; therefore, those entries/documents could not be

discarded on the said grounds. Apart from this, one document is dated 26-06-1942. The vigilance cell claims that the said document belongs to the cousin grandfather of the petitioner Nagesham Balaiya, wherein his caste has been recorded as '*Telang*'; however, on perusal of the family tree, the name of 'Nagesham Balaiya' does not appear in it, but the name of his grandfather is shown as "*Nagoswmi*" and great-grandfather's name is mentioned as "*Bagaiya*". In addition, by filing an explanation, the petitioner has categorically denied the entry in the said document and his relationship with Nagesham. However, without recording any cogent reason for discarding the explanation, the Committee erred in believing said document as genuine. In fact, it was incumbent on the Committee to record the reason for accepting the said document when the petitioner has categorically denied his relationship with the said person as well as denied the said document. We have perused the original extract of the school admission and leaving register dated 26-06-1948, wherein the student's name was mentioned as Nagesham, and his father's name was shown as Balaiya. However, in the genealogical tree, the said name does not appear. Therefore, relying on the said entry would not be proper when the petitioner has categorically denied the same. The Committee ignored the explanation submitted by the petitioner in that regard and erred in observing that the petitioner failed to demonstrate that he belongs to '*Mannewar*' Scheduled Tribe. Based on the said finding, the impugned order cannot be sustained.

12. Perused the judgment passed in Writ Petition No.6341/2022 (*Khushali d/o Devidas Lade v. State of Maharashtra and another*), wherein this Court, after considering the decisions of the Hon'ble Apex Court in *Kumari Madhuri Patil & Another v. Addl. Commissioner, Tribal Development & Others (1994) 6 SCC 241* and *Anil Ramdas Mede v. State of Maharashtra & others, 2004(4) All MR 639* has observed that 'Telgu' is not identified as a caste, but it is an official language and, therefore, based on the entries as 'Telgu', 'Telgu Mannewar' documents it would not be proper to reject the tribe claim.

13. Another reason recorded for rejecting the claim of the petitioner was that the petitioner failed to satisfy the affinity test. However, the Hon'ble Apex Court in *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti / State of Maharashtra and others, 2023(2) Mh.L.J. 785*, has categorically observed that the affinity test cannot be termed as a litmus test and, therefore, the finding recorded by the Committee in that regard is not sustainable in the eyes of the law.

14. Thus, considering the above discussion as well as the documents on record, the petitioner, to substantiate his claim, has produced sixteen documents on record pertaining to his ancestors wherein his ancestors' caste was recorded as 'Mannewar', 'Telgu Mannewar' and based on the dictum laid down in the judgment in *Khushali d/o Devidas Lade (supra)*

Telgu cannot be termed as a caste, but the same is identified as an official language and, therefore, it would not be proper to discard those documents. That being so, the discarding of those documents by the Committee and giving undue importance to the document of 1948 indicating that same is pertaining to his cousin grandfather wherein his caste was recorded as Telang when the petitioner has categorically denied the said entry, it would not be proper to reject the claim of the petitioner based on the said document. Furthermore, neither the Committee nor the Vigilance Cell have disputed the authenticity of the documents produced by the petitioner. However, the Committee has discarded those documents only on the ground that the said entry denotes ‘Telgu Mannewar’, which is not a Scheduled Tribe. In such an eventuality, the Committee has no reason to discard those documents as ‘Telgu’ is not a caste/tribe. Thus, it seems that the finding recorded by the Committee is based on the misconception that Telgu is a caste and relying on one disputed document of 1948, which has no relevance with the petitioner, cannot be sustained in the eyes of the law, but that finding is contrary to the documents on record and settled position of law. Hence, the impugned order is liable to be set aside.

15. As a result, we allow the petition. The impugned order dated 19-09-2022 passed by the Committee is hereby quashed and set aside. It is hereby declared that the petitioner belongs to the ‘**Mannewar**’ Scheduled

Tribe. The respondent- committee is directed to issue a Validity Certificate in favour of the petitioner within four weeks from the production of a copy of this judgment.

16. Rule is made absolute in the above-said terms.

(ABHAY J. MANTRI, J.)

(AVINASH G. GHAROTE, J.)

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