



HIGH COURT OF JUDICATURE AT BOMBAY
:1:
IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3021 OF 2000

Miss Anita d/o Nagnath Pudrod,
aged: 18 years (completed),
Occ: Student, R/o Mangnali,
Tq.Dharmabad, District Nanded. Petitioner

Versus

1. The State of Maharashtra
2. The Committee for Scrutiny
& Verification of Tribe Claims,
through its Deputy Director (R),
M.S., Nasik.
3. The Maharashtra University of
Health Sciences, through its
Registrar, Anandvelli,
Gangapur Road, Nasik.
4. The Director of Medical
Education & Research,
MS Mumbai.
5. The Competent Authority and
Principal, Shri Guru
Gobindsinghji College of
Engineering & Technology,
Nanded.
6. The Tahsildar & Taluqa
Executive Magistrate, Biloli,
District Nanded. Respondents

Mr.D.M.Shinde, advocate holding for Mr.S.B.Talekar,
advocate for the petitioner.
Mr.V.B.Ghadge, A.G.P. for Respondents No.1, 4, 5 & 6.
Mr.M.S.Deshmukh, advocate for Respondent No.2.
Mr.K.D.Bade Patil, advocate for Respondent No.3.

WITH

WRIT PETITION NO.4199 OF 1997

Nagnathrao s/o Prabhanna Pudrod,
aged 44 years, Occ: Central
Government Service,
Bahekar Building, Opp. B.K.Inn,
Behind Kala Mandir, Somesh Colony,
Nanded, for the benefit and on

behalf of his minor son Avinash
Nagnathrao Pudrod.

Petitioner

Versus

1. The State of Maharashtra
2. The Committee for Scrutiny &
Verification of Tribe Claims,
M.S. Nasik.
3. The Dean,
Government Medical College,
Aurangabad, & Designated
Authority for admissions to
Medical Courses,
Aurangabad.

Respondents

Mr.D.M.Shinde, advocate holding for Mr.S.B.Talekar,
advocate for the petitioner
Mr.V.B.Ghadge, A.G.P. for Respondent No.1 & 3.
Mr.M.S.Deshmukh, advocate for Respondent No.2.

**CORAM : NARESH H. PATIL &
R.M.BORDE, JJ.**
Date : 31.07.2007.

JUDGMENT (Per R.M.Borde, J.):

1. Petitioner in W.P.No.3021/2000 - Miss Anita and petitioner in W.P.No.4199/97 - Avinash, who being a minor, was represented by his father Nagnath Pudrod, are real sister and brother inter se. In both the petitions, orders dated 09.06.2000 and 21.08.1997, passed by the Committee for Scrutiny & Verification of Tribe Claims, Nasik, are subject matter of challenge. Petitioners in both the petitions claim that they belong to "Mannervarlu", scheduled tribe and being aggrieved by the orders passed by the Scrutiny Committee, invalidating their

status claims, instant petitions are filed.

2. Petitioners Anita and Avinash were students, at the relevant time, pursuing their studies of M.B.B.S. Course. The tribe certificates, secured by petitioners, were referred to the Scrutiny Committee for verification. In respect of claim of Anita, the Committee directed vigilance cell inquiry and she was directed by the vigilance cell to put forth material in support of her status claim, on which she places reliance. The Vigilance Cell, after conducting inquiry and after verifying the relevant record, submitted its report to the Scrutiny Committee. Petitioner Anita was supplied with the copy of vigilance cell report and was directed to submit her reply. Petitioner Anita accordingly submitted reply to vigilance cell inquiry. Petitioner, along with her father, participated in the proceedings before Scrutiny Committee and placed documentary evidence on record. After giving an opportunity of hearing to the petitioner as well as after conducting interview of the petitioner, the Committee was not convinced regarding genuineness of the claim of petitioner - Anita.

3. In case of claim of petitioner Avinash also, the evidence, on which reliance is placed, is one and

the same as in the case of petitioner - Anita. The Scrutiny Committee invalidated tribe claim of petitioner - Avinash also. In this view of the matter, both the petitions are being considered together.

4. We have heard Mr.D.M.Shinde, learned Counsel holding for Mr.S.B.Talekar, advocate for petitioners, Mr.V.B.Ghadge, learned A.G.P. for Respondent-State, Mr.M.S.Deshmukh, learned Counsel for Scrutiny Committee and Mr.K.D.Bade Patil, learned Counsel for Respondent-University.

5. In support of tribe claim, petitioners placed reliance on several documents, which includes, school record of petitioners as well as service record of petitioners' father Nagnathrao Pudrod. Petitioners, along with, petitions, have placed on record copy of the list of students who were withdrawing Government scholarship wherein name of the father of petitioners appears at Sr.No.1, who had said to have withdrawn scholarship meant for scheduled tribe category students. The service extract of father of petitioners records entry in the column of Nationality, Caste, Religion as Indian, Hindu and Scheduled Tribe. Petitioners have also placed on record copy of judgment in Writ Petition No.1940/90

in the matter of one Nagnath s/o Dattaram Lakhamawar and contended that said Nagnath is related to petitioners.

6. The Committee considered documentary evidence placed on record by petitioners as well as evidence in the form of documents placed along with vigilance cell inquiry report. It is evident from the school record of petitioners' father that entry in respect of his caste is recorded as "Munurwar". In the birth extract of father of petitioners, wherein his date of birth is recorded as 16.06.1953, his caste is mentioned as "Munurwar". These documents, which are comparatively old, indicate entry of caste as "Munurwar" and, therefore, has a greater evidentiary value. The documents, on which petitioners placed reliance, are of recent origin. The service extract in respect of father of petitioner cannot be relied upon for the reason that entry therein is not subjected to verification and that, in the column of caste, there is no specific entry and his status is recorded as scheduled tribe. So far as other evidence, in respect of alleged relations of the petitioner, is concerned, they are not blood relations of the petitioner and as such in view of the provisions of the Maharashtra Scheduled Castes, 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 (for short 'Act No.XXIII of 2001'), no reliance can be placed on such evidence. It is also revealed from the report of vigilance cell inquiry that neither father of the petitioner nor petitioner are conversant with the traits and characteristics which are peculiar to Mannervarlu, Scheduled Tribe.

7. The documentary evidence, in respect of caste status of petitioners' father, which is comparatively older one, has a great probative value wherein caste of father of petitioners' is noted as "Munurwar", which comes under "Other Backward Class" category. Apart from this, the Committee has rightly concluded that petitioners or their father do not possess basic knowledge of traits, characteristics, customs and culture of "Mannervarlu" scheduled tribe. Petitioners, as such, have failed to prove their affinity and ethnic linkage towards "Mannervarlu" Scheduled Tribe.

8. We have also perused orders passed by the Scrutiny Committee and we are of the opinion that the Scrutiny Committee has taken into account all the material which was placed on record. We do not find

any inconsistency or any error necessitating our interference in writ jurisdiction under Article 226 of the Constitution of India.

9. In the matter of Anita (petitioner in W.P.No.3021/2000), while admitting the petition on 07.08.2000, this Court had granted interim relief in terms of prayer clauses (C) and (D), on the condition of petitioner's tendering an undertaking to the Court not to claim any benefits as belonging to Mannervarlu community without further orders from this Court. On the strength of interim order passed by this Court, it is informed to us that petitioner secured admission to M.B.B.S. Course and has already completed her studies.

10. In the case of Avinash (petitioner in W.P.No.4199/97), he also secured admission to M.B.B.S. Course on the strength of interim order dated 24.08.1998 passed by this Court. It is brought to our notice that Avinash had completed his M.B.B.S. Course and has also completed his internship in 2003. Petitioner Avinash has, on 26.02.2004, categorically undertaken before this Court not to claim admission on any seat reserved for Scheduled Tribe category, in any Post Graduation Course. In view of the undertaking given by petitioner Avinash, it was

directed to the authorities concerned to issue him internship completion certificate.

11. It is thus clear that both the petitioners have completed their professional course on the strength of interim orders passed by this Court. Petitioners are trained medical professionals and their services can be utilised for the benefit of the society. The knowledge and expertise gained by the petitioners cannot be withdrawn. In this view of the matter, we do not deem it appropriate to direct any action against petitioners in accordance with provisions of Section 10 of the Act No.XXIII of 2001. However, in the facts and circumstances of the case, it would be appropriate to direct that the petitioners shall not be eligible to claim any benefits in the form of service benefits or any other benefits and further, they shall not be eligible to claim that they belong to "Mannervarlu" scheduled tribe.

12. In the facts and circumstances of the case serialised above, no interference is warranted. Both the petitions stand dismissed. Rule discharged. No costs.



(R.M.BORDE)
JUDGE

(NARESH H.PATIL)
JUDGE

bad/wp302100