

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

WRIT PETITION NO. 5211 OF 2006

Avinash s/o Digambarrao Pudalwad

PETITIONER

VERSUS

The Scheduled Tribe Caste Certificate
Verification Committee & another

RESPONDENTS

Shri M.S. Vibhute, Advocate for the petitioner.
Shri M.S. Deshmukh, Advocate for the respondent no.
1.

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CORAM : NARESH H. PATIL AND
R.M. BORDE, JJ

DATE : 10TH JULY, 2007.

PER COURT : (PER : R. M. BORDE, J.) 1. The petitioner claims to be belonging to Mannerwarlu, scheduled Tribe. The petitioner secured a certificate to that effect from competent authority which was subjected to verification by the Scheduled Tribe Certificate Scrutiny Committee, Aurangbad. As per the procedure laid down under the Act, a vigilance enquiry was directed. On receipt of the report of the Vigilance Cell, the petitioner was transmitted copy thereof and was directed to submit his comments in relation to the enquiry report. The

petitioner preferred not to offer his comment on the report before the Committee. The petitioner was directed to appear for personal hearing before the Committee. The petitioner preferred to remain absent on the given dates prescribed for personal hearing. The Committee had therefore no other alternative but to proceed to dispose of the matter on the basis of the material placed before the Committee. The Committee passed adverse order on 7-3-2006 invalidating the status claim of the petitioner which order is being impugned in this petition.

2. We have heard Shri Vibhute, learned counsel for the petitioner and Shri M.S. Deshmukh, learned counsel for the Committee. The learned counsel appearing for the Committee made available the original papers for perusal. The learned counsel for the petitioner vehemently contended that the Scrutiny Committee has not appreciated the documentary evidence placed on record and has arrived at wrong conclusion. According to the learned counsel for the petitioner, there are entries in the documentary evidence placed on record establishing the status claim of the petitioner as belonging to Mannerwarlu Scheduled Tribe.

3. We have perused the order passed by the Scrutiny Committee. It appears that there are 72 documents placed on record alongwith report of the Vigilance Cell before the Committee. The documents at sr. nos. 15, 23, 25 and 28 are pertaining to the close relations of the petitioner. Documents at sr. no. 1, 15, 18, 25 are pertaining to real aunt of the petitioner and, in the relevant documents, in the caste column, entry is recorded as Mannerwar whereas in the documents at sr. no. 18, initial entry which was recorded as Manurwar is later on corrected as Mannerwarlu. Entry in the document at sr. no. 23 pertaining to father of the petitioner which was original recorded as Manurwar has been later on changed to Mannerwarlu. Whereas in the case of real uncle also the same is the situation regarding documentary evidence. The other documents are stated to be relating to the blood relations of the petitioner and the documents pertaining to all the relations enlisted in the chart given at page 44 to 49 of the compilation provided by the petitioner clearly demonstrate that there are entries in the documentary evidence regarding such blood relations belonging to either Manurwar community or the initial entry which was recorded as Manurwar has been subsequently corrected as Munnerwarlu. In majority

of the documents placed on record by the Vigilance Officer, the entries clearly indicate that all the persons who bear the surname Pundalwad belong to Munurwar community. There is overwhelming evidence placed on record demonstrating that the petitioner belongs to Munurwar community and does not belong to Mannerwarlu Scheduled Tribe as claimed by him. There is a contrary evidence in the form of school record of the applicant's father which reveals an entry as Munurwar. The certificate which has been placed on record by the petitioner in relation to his father itself reveals that the caste in the relevant record is recorded as 'Kolam Mannuerwarlu" However, the service entry has not been subjected to verification nor there is any mention as to on what basis such an entry is recorded. Therefore, the Committee has rightly discarded the said evidence in the form of service record placed by the petitioner before the Committee. The petitioner has placed reliance on two validity certificates which are said to have been issued in favour of some distant relatives of the petitioner. We have perused the affidavit filed alongwith the petition. It gives an impression that the concerned persons in whose favour the validity certificates have been issued are not blood relations of the petitioner. No reliance can therefore be

placed on such evidence. The petitioner has tendered a copy of one revenue entry of 1340 fasli and has contended that the person in whose name the agricultural property has been recorded is his real paternal cousin grandfather. However, it appears that the said document was not either produced before the Vigilance Officer nor was placed before the Committee during the enquiry. There is also no evidence to demonstrate that the concerned person is related with the petitioner. The contention of the petitioner based on the documents tendered during the course of hearing of the writ petition is not accepted.

4. Learned counsel for the petitioner has placed reliance on reported judgment in the matter of Murlidhar vs. State of Maharashtra 2007(3) Mh.L.J. 308. We have perused the same. We are of the opinion that the ratio laid down in the reported judgment is not attracted in the instant matter.

5. Another grievance made by the petitioner is regarding failure by the Vigilance Cell Officer to supply the documents on which reliance is placed during the course of Vigilance Cell enquiry. However, it is to be noted that the provisions of

rules prescribe only furnishing of copy of Vigilance Cell enquiry Report. It is not expected of Vigilance Cell officer to submit the copies of the record which are collected during the course of enquiry. Moreover, the petitioner has not made any request during the course of enquiry before the Scrutiny Committee for either perusal or inspection of the documents placed on record by the Enquiry Officer during the course of Vigilance Cell enquiry. Therefore the grievance made in that regard is required to be turned down.

6. Apart from the evidence in the form of documentary evidence which is adverse to the petitioner, the petitioner has not been successful in establishing his ethenic linkage with the Mannerwarlu Scheduled Tribe Community. The Committee has clearly recorded that the petitioner has failed to prove the affinity test. We do not find that the reasons recorded by the Scrutiny Committee are unreasonable or need any interference. There is no merit in the petition and the same deserves to be rejected. Hence rejected.

(R.M. BORDE, J.)

(NARESH H. PATIL, J.)

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