



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9755 OF 2024

Rameshwar Gajanan Chandewar
Aged 22 years, Occu. Student,
Residing at Rampur, Post. Pathri,
Tal. Kinwat, Dist. Nanded

.. Petitioner

Versus

1] State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai – 400 032

2] Scheduled Tribe Caste Certificate
Scrutiny Committee, Kinwat,
through its Member Secretary

.. Respondents

...
Advocate for petitioner : Mr. Sagar S. Phatale
Addl. GP for the respondent – State : Mr. P.S. Patil
...

**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

**RESERVED ON : 05 SEPTEMBER 2024
PRONOUNCED ON : 10 SEPTEMBER 2024**

ORDER (MANGESH S. PATIL, J.) :

By this petition under Article 226 of the Constitution of India and purportedly under sub-section 2 of section 7 of the Maharashtra Act No. XXIII of 2001 (**Act**), the petitioner is challenging the order of the respondent no. 2 - scrutiny committee (**committee**) constituted under that Act, whereby it has refused to validate his

'Mannervarlu' scheduled tribe certificate and directed it to be confiscated and cancelled.

2. Learned advocate for the petitioner submits that the petitioner belongs to 'Mannervarlu' scheduled tribe (serial no. 27 of the Presidential Order of 1950). There was revenue record of great grandfather Poshetti Chandewar of *Fasli* 1347 (1937 AD). Apart from such pre-constitutional record, even there was school record of his grandfather Rajaram Ramanna Chandewar of 15-06-1944. Besides this pre-constitutional record which has greatest probative value, there were favourable records of the subsequent period wherein the petitioner and his relatives were described as 'Mannervarlu' by caste. The committee has without cogent and convincing reasons discarded 1347 *Fasli* record by drawing adverse inference but not for the sound reasons.

3. Mr. Phatale would further submit that the committee has illegally resorted to caste entries of some blood relatives wherein they were described as Telangi, Telangi Mannervarlu and Telangi Kunbi as contrary entries when Telangi is not a caste. There could be some such entries which were entered wrongly due to the illiteracy in the family. Petitioner has duly explained it in the reply to the vigilance report filed by him.

4. Mr. Phatale would further submit that the committee has acted vindictively. The petitioner being anxious as he was to secure admission, had approached this Court and had solicited a direction to the committee. On 01-07-2024 in writ petition no. 14177 of 2023, the High Court had remanded the matter for deciding the proposal afresh within four weeks. Having failed to do so, he had to take out contempt petition no. 738 of 2024 and still the committee was unable to decide the petitioner's proposal and ultimately, passed the impugned order on 04-09-2024 i.e. the day on which the petitioner was heard and since it was the last date for the petitioner to confirm his admission with the college, matter has been circulated intra day for final disposal. In all probability the committee has deliberately discarded the claim. The judgment and order is erroneous as it discards favourable record of pre-constitutional period on flimsy ground contrary to the principles laid down in ***Anand V. Committee for Scrutiny and Verification of Tribe Claims and others; (2012) 1 SCC 113.***

5. Per contra, the learned AGP Mr. Patil would strongly oppose the petition. He would not deny the circumstances under which the order was passed, pursuant to the statement made by the committee before this Court in the contempt petition. However, he would submit that the petitioner has resorted to manipulation. The school record of petitioner's paternal uncle, cousin uncle, cousin

paternal aunt and even his father described them as Telangi, Telangi Kunbi. Wherever the entries appear as Telangi Manarvarlu or Telangi Munervarlu or even Munnarvarlu, of the period between 1977 and 1987 were found to be tampered with either letter 'lu' was added subsequently or the entire word 'Mannervarlu' was added at a later point of time. As it is, this is a post-constitutional record and had lesser probative value and still, it was found to be manipulated.

6. Learned AGP would submit that so far as the school record of petitioner's grandfather Rajaram Ramanna Chandewar is concerned, apart from the comment made by the Vigilance Officer, even the committee had called upon the headmaster to bring the school register. The headmaster stated before the committee that he was working as a headmaster in that school since 01-07-2019 and expressly denied to have issued the extract dated 06-02-2023 mentioning the entry at serial no. 109 was that of Rajaram Ramanna Chandewar. He denied that the signature and handwriting to be his. Even the original entries in both registers at serial nos. 109, are of some other individual and not of Rajaram Ramanna Chandewar.

7. Mr. Patil would further submit that so far as 1347 *Fasli* Pahani Patrak is concerned, though it was brought from the Tehsil office of Biloli by its record keeper, it turned out that it was containing merely 15 pages. The columns were drawn with pencil. Pages were

not numbered. There were 1 to 49 entries made in *Modi* script. He would also submit that the committee also noticed that on the right side page, entries were made in Urdu script but the opposite left side page was having entries in *Modi* script. Even the last page was in *Modi* script and on the last page, last sentence was in Urdu.

8. The committee had called upon one Smt. Mushirnisa Abdul Gafoor Quadri to get the Urdu script translated. She expressly opined that the entry in respect of Ramanna Poshetti Mannervarlu was about one Dhondu Father Amruta having given land survey no. 22(2) to Ramanna on crop share basis. Signature of one Dattatray is appearing below that. The Urdu script mentions about description of castes in caste column throughout the register but only that of Mannervarlu, Koli Mahadev and at some places Dhangar and Mahar. Even the stamp thereon was blurr and the ink thereof could easily appear on the fingers when rubbed against it. Even she opined that the entries appeared to have been made by pen recently. Though the rest of the columns have been filled in *Modi* script, only in the remarks column the entries appeared in Urdu. Even it appeared that the seal was impressed earlier and, thereafter, the columns were drawn with pencil.

9. In view of such dubious nature of the revenue record, the committee became suspicious and has rightly refused to consider it as a favourable record. Even the *Khasra Patrak* which is the revenue

record of Ramanna Poshetti described him as Telanga in the year 1954-55. He would, therefore, submit that the petitioner had failed to discharge the burden cast upon him under section 8 of the Act. Even he could not withstood the affinity test which has not been absolutely discarded and has its place as indicated in ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others; 2023 SCC Online SC 326***. The observations and the conclusions of the committee, cannot be said to be perverse or arbitrary. After appreciating the evidence, reasonable view has been taken which cannot be interfered with by this Court under Article 226 of the Constitution of India.

10. We have carefully considered the rival submissions and perused the papers.

11. The petitioner produced following record in support of his claim :

Sr. No.	Name of Document	Name of person on the document	Blood relation with the applicant	Caste recorded	Date of Admission
1	Student Admission and Leaving Extract	Rameshwar Gajanan Chandewar	Applicant	Munnervarlu	13/06/2008
2	Student Admission and Leaving Extract	Rameshwar Gajanan Chandewar	Applicant	Mannervarlu	01/07/2014
3	Student Admission and Leaving Extract	Rameshwar Gajanan Chandewar	Applicant	Mannervarlu	17/06/2013
4	Student Admission and Leaving Extract	Rameshwar Gajanan Chandewar	Applicant	Mannervarlu	15/06/2016
5	Student Admission and Leaving Extract	Rameshwar Gajanan Chandewar	Applicant	Mannervarlu	09/06/2017
6	School Leaving Certificate	Rameshwar Gajanan Chandewar	Applicant	Mannervarlu	20/07/2019
7	School Leaving Certificate	Gajanan Rajaram Chandewar	Father	Mannervarlu	17/06/1986
8	Student Admission and Leaving Extract	Gajanan Rajaram Chandewar	Father	Mannervarlu	17/06/1986
9	Student Admission and Leaving Extract	Manisha Gajanan Chandewar	Sister	Mannervarlu	23/07/1998
10	Caste Certificate	Sumit Gajanan Chandewar	Brother	Mannervarlu	18/03/2015
11	Student Admission and Leaving Extract	Sumit Gajanan Chandewar	Brother	Mannervarlu	23/06/2003
12	Student Admission and Leaving Extract	Punam Gajanan Chandewar	Sister	Mannervarlu	22/06/2005
13	7/12 Extract	Gajanan Rajaram Chandewar	Father	--	--

The committee traced out during the vigilance enquiry following school record :

Sr. No.	Name of School	Admission Number	Name of the student	Relation with the applicant	Caste recorded	Date of Admission	Remarks
1	Z.P. Primary School, Rampur, Tq. Kinwad, Dist. Nanded	39	Telangi Chandawar Sushilabai Rajaram	Aunt	Telangi	16/08/1966	
2	Z.P. Primary School, Rampur, Tq. Kinwat, Dist. Nanded	24	Chandewar Laxman Rajanna	Cousin Uncle	Telangi	07/12/1963	
3	Z.P. Primary School, Rampur, Tq. Kinwat, Dist. Nanded	09	Chandewar Radhika Rajanna	Cousin Aunt	Telangi	13/06/1961	
4	Z.P. Primary School, Rampur, Tq. Kinwat, Dist. Nanded	--	Chandewar Mahananda Rajaram	Aunt	Telangi	01/07/1981	
5	Z.P. Primary School, Rampur, Tq. Kinwat, Dist. Nanded	47	Chandawar Chandrakala Rajanna	Cousin Aunt	Telangi	01/07/1982	
6	Z.P. Primary School, Rampur, Tq. Kinwat, Dist. Nanded	60	Chandawar Gajanan Rajaram	Cousin Uncle	Telangi Kunbi	01/10/1966	
7	Z.P. Primary School, Rampur, Tq. Kinwat, Dist. Nanded	--	Chandewar Gajanan Rajaram	Aunt	Telangi Manervarlu	05/07/1979	In Caste Column, word 'Manvarlu' is written subsequently
7	Z.P. Primary School, Rampur, Tq. Kinwat, Dist. Nanded	--	Chandewar Gajanan Rajaram	Aunt	Telangi Manervarlu	05/07/1979	In Caste Column, word 'Manvarlu' is written subsequently
8	Z.P. Primary School, Rampur, Tq. Kinwat, Dist. Nanded	--	Chandewar Pushpa Rajaram	Aunt	Telangi Munnervarlu	14/07/1977	In Caste Column, word 'Munnervarlu' is written in different ink subsequently
9	Z.P. Primary School, Rampur, Tq. Kinwat, Dist. Nanded	--	Chandewar Bebi Rajaram	Aunt	Munnervarlu	15/06/1987	In Caste Column, 'Munnarvarlu' appears to be written in different ink
10	Z.P. Primary School, Rampur, Tq. Kinwat, Dist. Nanded	396	Chandewar Punam Gajanan	Sister	Mannarvarlu	22/06/2005	
11	Z.P. Primary School, Rampur, Tq. Kinwat, Dist. Nanded	378	Chandewar Sumit Gajanan	Brother	Mannervarlu	23/06/2003	
12	Z.P. Primary School, Rampur, Tq. Kinwat, Dist. Nanded	340	Chandewar Manisha Gajanan	Sister	Munnervarlu	03/07/1998	
13	Z.P. Primary School, Rampur, Tq. Kinwat, Dist. Nanded	420	Chandewar Rameshwar Gajanan	Applicant	Munnervarlu	13/06/2008	
14	Z.P. Primary School, Rampur, Tq. Kinwat, Dist. Nanded	50	Chandewar Sunanda Rajaram	Aunt	Manervarlu	--	

Obviously, the entries relied upon by the petitioner which were of the period 1986 to 2019, would have inherent limitations in being used as a substantive piece of evidence, for, being of post independence period, there could be every possibility of those having been made objectively

to derive the benefit of reservation. Of course, those cannot be discarded outrightly.

12. True it is that word 'Telangi' while describing the candidate as such in the caste column of the school record, cannot be used as a contrary entry as has been done by the committee, in view of decision of this Court in the matter of **Ashish S/o. Bhagwan Choudhari Vs. The State of Maharashtra and others** (writ petition no. 10388 of 2017 – order dated 05-10-2017 – Principal Seat).

13. Though 'Telanga' or 'Telangi' entries cannot be treated as contrary to the claim of 'Mannervarlu', conversely these entries also cannot be treated as favourable entries either. Meaning thereby, that though the committee could not have discarded 'Telanga' or 'Telangi' entries as contrary entries, those even would not corroborate the petitioner's claim of being 'Mannervarlu'.

14. Three entries of petitioner's father of 05-07-1979 and paternal aunts Pushpa and Bebi of 14-07-1977 and 15-06-1987 are discarded by the committee on the ground that the words "Manarvarlu", 'Munnervarlu' and 'Munnervarlu' appeared to have been incorporated at a later point of time wherein already there was word 'Telangi' appearing in the first two entries and the entire word 'Munnervarlu' was added subsequently in a different ink.

15. Since it is a matter of factual appreciation of the school record, one cannot take exception to the inference drawn by the committee. Besides such specific endorsement appearing against those three entries in the vigilance report have not been specifically denied by the petitioner either in his reply dated 25-08-2023 or even in the additional reply dated 27-09-2023. He did not specifically dispute the observation of these entries being manipulated. Even in the entire petition memo, no attempt has been made by the petitioner to take exception to these observations of the committee with regard to these three entries. Consequently, the observation of the committee to discard these three entries of petitioner's father and two paternal aunts, cannot be said to be perverse or arbitrary. Rather, those would substantiate the inference of the committee that even an attempt has been made in manipulation of the school record, obviously, to suit the purpose.

16. Now coming to the revenue record of petitioner's great grandfather Ramanna Poshetti, even therein, in the *Khasra Pahani Patrak* of 1954-55, he was described as 'Telanga'. As is mentioned above, though it is not a contrary entry to the claim of 'Mannervarlu', it would also not be a favourable one.

17. So far as 1347 *Fasli* revenue record is concerned, we need not repeat the observations of the committee which have already been mentioned earlier. The fact that though it was a record coming from the record of Tehsil office, Biloli, District - Nanded, no exception can be taken to the inference drawn by the committee based on what could be noticed even by the translator. The column on the left side of page contained entries in *Modi* script whereas only the columns on the right side page in the remarks column, appeared in Urdu. The seal impressed apparently having Urdu script, was also smudged one and the ink appeared fresh. Surprisingly, even the columns were drawn in pencil and the line appeared even on the already impressed stamp. Meaning thereby that it was not a ruled page having the seal but it was a page having the seal whereupon the lines were drawn. If such was the condition of the record, no exception can be taken to the inference drawn by the committee that it was a dubious record and refusing to accept it as a proof to substantiate petitioner's claim.

18. As regards the school record of petitioner's grandfather Rajaram Ramanna Chandewar, apart from the fact that the headmaster had expressly denied to have issued school register extract and even denied the seal and signature appearing thereon, even the original two registers were brought before the committee and have been made

available to us and both these registers at serial nos. 109, bear names of some different individuals and not that of Rajaram Ramanna Chandewar.

19. Though Mr. Phatale would submit that certified extract of the school record was obtained in the year 2017 and filed in the year 2019, if it is a matter of school record and when the original record is in possession of the headmaster could be brought to the committee and was also produced before us. When the entries at serial nos. 109 do not *ex facie* corroborate the petitioner's claim, nothing else was required to be looked into and was sufficient to discard the document.

20. One may not be able to attribute the petitioner with forgery *ipso facto* but when the extract does not tally with the original school register, genuineness of which is not under any dispute, even going by the original entries which do not substantiate issuance of the certified extract, at least the observation of the committee to discard it, cannot be taken exception of.

21. Resultantly, except some favourable school record of the recent origin of the 8th and 9th decade of 20th century onwards, there being no favourable record corroborating the petitioner's claim, the observations and conclusions of the committee refusing to validate his 'Mannervarlu' scheduled tribe certificate, cannot be said to be perverse,

arbitrary and capricious, this is apart from the fact that some of the so-called favourable record is found to be either dubious or even false one. There is no merit in the petition.

22. The petition is dismissed.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/