



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

WRIT PETITION No.7977 OF 2017

1. Hemant s/o. Sudhir Channakeshala,
Aged about 32 years,
Occupation : Service.
2. Jayant s/o. Sudhir Chhanakeshala,
Aged about 30 years,
Occupation : Service,

Both R/o. Dwarka Nagar, Sagwan,
District Buldhana.

: PETITIONERS

...VERSUS...

1. The State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai-32.
2. The Committee for Scrutiny and
Verification of Tribes Claim for Akola
Division, having office at Irwin Square,
Near Employment Office,
Morshi Road,
Amravati,
through its Member Secretary.
3. The Chairman Pusad Urban Co-op.
Bank Ltd. Pusad,
Talao Layout Pusad
Distt. Yavatmal.
4. Superintendent of Police,
SBI Square,
Buldhana.

: RESPONDENTS

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Shri H.G. Katekar, Advocate with Shri C.V. Sawalkar, Advocate for
Petitioners.

Shri N.R. Patil, Asstt. Government Pleader for Respondent Nos.1 and 2.
Shri Abhay Sambre, Advocate for Respondent No.3.

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CORAM : A.S.Chandurkar & Urmila Joshi-Phalke, JJ.

DATE : 14th July, 2022.

ORAL JUDGMENT : (Per : Urmila Joshi-Phalke, J.)

1. Rule. Rule made returnable forthwith.
2. The petitioners belong to Scheduled Tribe "Mannewar".
Petitioner No.1-Hemant Sudhir is working as a Clerk at the Head Office of respondent No.3-Pusad Urban Co-operative Bank Limited and the petitioner No.2 is working as Police Constable since 2014. The petitioner No.1 was kept on probation initially for want of tribe validity certificate. The tribe certificates of petitioner Nos.1 and 2 were forwarded for verification and validation on 17.6.2013 and 15.1.2015 respectively. Initially, petitioner No.1 had filed Writ Petition No.1963/2016 for a direction to decide the caste claim of the petitioner and by passing order on 12.7.2016 this Court directed respondent No.2-Caste Scrutiny Committee to decide the tribe claim of the petitioners. The respondent No.2 had passed order on 28.7.2017 and invalidated the tribe claim of the petitioner on the ground that there are adverse entries as 'Telgu Mannewar'. The mother tongue of the petitioners is also Telgu. The

tribe entries of the relatives was recorded as Telgu in their school records. The tribe claim of the petitioners was also invalidated on the ground that affinity was not proved.

3. Being aggrieved with the said order passed by the Caste Scrutiny Committee the present writ petition is filed by the petitioners on the grounds that they had submitted various documents such as tribe certificate issued to their father on 29.9.2012, service book of their father, school leaving entry of their great grandfather which is of pre-independence era which clearly shows petitioners are of Scheduled Tribe 'Mannewar', but respondent No.2 ignored the same and illegally decided the claim. The order passed by the Committee is unjust, illegal and liable to be quashed and set aside. The petitioners also claimed direction to the respondent No.2-Caste Scrutiny Committee to issue validity certificate.

4. The respondent Nos.1 to 3 opposed the said petition on the ground that there are adverse entries regarding the tribe of the relatives of the petitioners. They are recorded as 'Telgu', 'Telgu Mannewar'. Therefore the order passed by the Caste Scrutiny Committee-respondent No.2 is just and reasonable, therefore writ petition deserves to be dismissed.

5. Heard Shri H.G. Katekar, learned counsel for the petitioners. He submitted that the petitioner No.1 is working as a Clerk

in Pusad Urban Co-operative Bank, whereas petitioner No.2 is working as a Police Constable, they are in need of validity certificate to secure their services. Therefore, they approached to the respondent No.2-Caste Scrutiny Committee for validation of their caste claim. However, the respondent No.2-Caste Scrutiny Committee ignored the relevant documents and wrongly invalidated the claim. In support of his contention he relied upon various documents. He relied upon the appointment order of petitioner No1 dated 30.4.2013 and the appointment order of petitioner No.2 dated 9.8.2014. The tribe certificate issued to the petitioner Nos.1 and 2, School Leaving Certificate of their real brother Jayant Sudhir which has recorded the caste as 'Mannewar', caste certificate of their father issued on 20.9.2012 by the Sub-Divisional Officer, Buldhana, entry in birth register issued by Municipal Corporation, Amravati regarding birth date of their great grandfather Vyankatram Sheshaiya dated 14.4.1924 which recorded the caste as a Mannewar, birth entry of their cousin great grandfather Narsing Sheshaiya showing birth date as 23.6.1934 and admitted in school on 29.6.1943 and studied in Municipal School, Amravati uptill 31.3.1948, school leaving certificate of cousin brother Kanhaiyya Papaiya, school admission extract of cousin brother Sanjay Papaiya etc. He submitted that there are pre-independence documents which has probative value are ignored by the Committee. The order passed by the

Committee is unjust and illegal and liable to be set aside. On the other hand, Shri N.R. Patil, learned Assistant Government Pleader for respondent Nos.1 and 2 submitted that the order passed by the Scrutiny Committee is just and reasonable and no interference is called for.

6. We have heard both the parties at length and also perused the record maintained by the Scrutiny Committee. Undisputedly, many documents placed on record by the petitioners as well as collected by the Vigilance Committee, out of which the documents collected by the Vigilance Committee shows that the birth of great grandfather of the petitioners namely Vyankatram Sheshaiya was recorded in the Municipal record of Amravati and birth date was recorded as 14.4.1924 and caste was recorded as 'Mannewar'. Birth entry of cousin great grandfather Narsing Sheshaiya also shows that he born on 23.6.1934. He was admitted in school on 29.6.1943 and studied in school till 31.3.1948. His tribe was also recorded in the school as 'Mannewar'. The family tree recorded by Vigilance shows that Papaiya Vyankatram is the son of Vyankatram Sheshaiya, who born on 14.4.1924. Father of the petitioner Sudhir is son of Papaiya Vyankatram. Said Sudhir has three sons petitioner Nos.1,2 and one Jayant. Sub-Divisional Officer, Buldhana had issued tribe certificate to the father of the petitioner on 20.9.2012. Vigilance Committee has also carried out investigation. It appears from the Vigilance that the petitioner had submitted birth register extract of

their great grandfather Vyankatram Sheshaiya born on 14.4.1924 whose tribe was recorded as 'Mannewar'. The Vigilance Committee also collected the record of Bhagwanswami Sheshaiya, who born on 31.7.1936. His caste entry is recorded as Telgu i.e. adverse entry. On the basis of these adverse entries the Vigilance Committee reported that the caste of the petitioners' relative was recorded as 'Telgu Mannewar'. On the basis of the Vigilance report the Committee came to the conclusion that there are adverse entries regarding the relatives of the petitioners. They are recorded as 'Telgu Mannewar', 'Telgu Telang' etc. It is observed by the Caste Scrutiny Committee that tribe entries of petitioners' blood relatives have been found recorded in the oldest document as 'Telgu', 'Telgu Mannewar', 'Telangu' etc. and therefore the petitioners are not entitled for the tribe validity certificate.

7. On behalf of the petitioners it is submitted that Telgu is not the caste but it is the language. In support of the contention learned counsel for the petitioners relied upon the decision in the case of **Ajay s/o. Ramdas Mede vs. The State of Maharashtra and others**, in **Writ Petition No.2290/2007**, decided on 24.10.2008, wherein this Court has held that there are other documents on which the petitioner based his claim, but the above mentioned documents are of a great probative value and it cannot be brushed aside. He also relied upon the decision **Ku. Anju d/o Ishwardas Batul Vs. State of Maharashtra and others** in

Writ Petition No.1028/2005, decided on 28th April, 2016, wherein it is held by this Court that the petitioner had filed several documents to buttress the submission that said petitioner belonged to ‘Mannewar’ Scheduled Tribe. Those documents were also verified by Vigilance Cell Authority and it was clear from the perusal of the impugned order that the Committee had not found anything wrong with any of the documents. The Committee had observed that as caste is recorded either as ‘Telgu’ or as ‘Telgu Mannewar’ said documents are not relied upon. The Division Bench of this Court relied upon the decision of Division Bench in a case, reported in **Anil Ramdas Mede vs. State of Maharashtra and others**, reported in 2004 (4) of ALL MR 639, wherein it is observed that Telgu is an official language and not a caste. Thus, mention of ‘Telgu’ in a document has been held not to signify caste/tribe, therefore, held that in this situation merely because documents of relatives show caste either as a ‘Telgu’ or as ‘Telgu Mannewar’, documents of petitioner could not have been ignored. He further relied upon a decision in **Writ Petition No.5119/2016 (Manish s/o. Bansidhar Pancham vs. State of Maharashtra and others)** and **Lisha Digambar Dudhare vs. State of Maharashtra and another**, reported in 2017(4) **Mh.L.J. 895**. In Manish Bansidhar Panchgam’ case in Writ Petition No.5119/2016 the Division Bench of this Court had held that ‘Mannewar’ is a Scheduled Tribe. The caste or tribe as is mentioned in the Presidential Order has to be read as

it is. It is further held that insofar as the reasons given by the Committee that the documents pertaining to some of the relatives show the caste to be 'Telgu' or 'Telangi' are concerned, it is a common knowledge that 'Telgu' or 'Telangi' refers to region which was part of Andhra Pradesh and now a separate State. It is further held that pre-constitutional documents will have to be given a greater probative value than the affinity test. Same observation is made by this Court in *Lisha Digambar Dudhare* (supra) that the pre-constitutional documents will have to be given a greater probative value than the affinity test. Merely because the petitioner's father's school leaving certificate and his tribe certificate mentioned the caste as 'Telgu', this cannot override the pre-constitutional document of the petitioner's grandfather which had recorded his caste as 'Mannewar' in the year 1939.

8. In the present case also petitioners relied upon the birth extract entry of his great grandfather, namely, Vyankatram Sheshaiya, who born on 14.4.1924 and his caste was recorded as 'Mannewar'. Thus, the pre-constitutional document on which the petitioner is relied upon which shows the birth entry of the great grandfather of the petitioners is of pre-constitutional era and caste was recorded as 'Mannewar' will have to be given a greater probative value. Merely because there are some adverse entries regarding caste of the blood relatives as 'Telgu Telangi', the same is not sufficient to discard the claim

of the petitioners. Now, in various decisions it is held by this Court that 'Telgu' is an official language and not the caste. Thus, mention of 'Telgu' in a document has been held not to signify caste and tribe. Merely because documents of relatives shows caste either as 'Telgu' or as 'Telgu Mannewar' documents of petitioners could not have been ignored. The Caste Scrutiny Committee also ignored the certificate issued to the father by the Sub-Divisional Officer recently on 20.9.2012.

9. Perusal of the various judgments clearly show that the observations of the Committee invalidating the claim on the ground that the documents of the relatives showing caste either as a 'Telgu' or as 'Telgu Mannewar' is erroneous.

10. When the documents conclusively establish the tribe claim of the petitioners as 'Mannewar', in the light of finding given above petitioners are entitled for the tribe validity certificate. In the above circumstances, we find that the impugned order dated 28.7.2017 passed by the respondent No.2-Committee unsustainable. It is accordingly, quashed and set aside. Therefore, we proceed to pass following order :

ORDER

- (i) The Writ Petition is allowed.
- (ii) The order passed by the Caste Scrutiny Committee on 28.7.2017 is set aside.
- (iii) It is declared that the petitioners belong to 'Mannewar'

Scheduled Tribe.

(iv) The Caste Scrutiny Committee shall issue validity certificate in favour of the petitioners within a period of six weeks of the receipt of copy of this judgment.

11. Rule is made absolute in the aforesaid terms. No order as to costs.

(Urmila Joshi-Phalke, J.)

(A.S.Chandurkar, J.)

वाडोदे