
(2022) 09 BOM CK 0070
In the Bombay High Court
Case No : Writ Petition No.2221 Of 2022

Amit Premraj Kale

APPELLANT

Vs

State Of Maharashtra And Others

RESPONDENT

Date of Decision : 15-09-2022

Acts Referred:

Citation : (2022) 09 BOM CK 0070

Hon'ble Judges : Sunil B. Shukre, J;G.A. Sanap, J

Bench : Division Bench

Advocate : R.L. Khapre, M.V. Amale, N.P. Mehta

Judgement

S.B. Shukre, J

1. Heard. Rule. Rule made returnable forthwith. Heard finally by consent of learned counsel for the parties.
2. On going through the impugned order and documents placed on record, we find that serious error of law and fact has been committed by the Scrutiny Committee invalidating the tribe claim of petitioner. The petitioner claims that he is belonging to "Mannewar" Scheduled Tribe and has, in support, placed on record pre-constitutional documents which consistently show that his paternal relatives belonged to "Mannewar" community. These documents have the entries of the dates of 16.03.2016, 16.06.1948, 13.02.1928, 19.07.1916, 12.07.1920 and 26.10.1941 and 20.09.1927.
3. The aforestated entries have been rejected by the Scrutiny Committee on the ground that they were not duly verified. The Scrutiny Committee had the assistance of the Vigilance Officer and nothing prevented the Scrutiny Committee from verifying those entries. Simply because, in the perception of the Scrutiny Committee, these entries cannot be believed to be true and correct could not be a ground to reject the tribe claim of the petitioner. Doing so, would be no lesser than doing injustice to a backward class student like the petitioner. These documents, in our opinion, do not have anything in them which would create an

obvious impression of wrong entries. Therefore, in our considered opinion, there is no reason for us to disbelieve the correctness of these documents. If this is so, these documents would have to be accepted as overwhelmingly supporting the tribe claim of the petitioner and we do so. There is also another reason given by the Scrutiny Committee in rejecting such pre-constitutional evidence adduced by the petitioner. Scrutiny Committee has opined that in some of the documents, which are very few in number, there were some interpolations and therefore, these documents were full of doubt. The Scrutiny Committee has made a specific reference to these documents which are of the years 1947, 1942 and 1950. Even if, this is accepted to be true, these documents do not create any doubt about the genuineness of the other pre-constitutional documents which has been established in a reasonable manner and which support the tribe-claim of the petitioner. The oldest of these documents is of the year 1960 and about this document, there is no doubt whatsoever expressed by the Scrutiny Committee. This document clearly shows that the paternal ancestors of the petitioner belonged to "Mannewar" community, which has been declared to be Scheduled-Tribe as per the Constitutional Order, of the year 1950.

4. There is another reason stated by the Scrutiny Committee for invalidating the tribe-claim of the petitioner. The Scrutiny Committee states that some documents disclose the caste of paternal relatives of the petitioner as "Telgu Mannewar". In fact, the law in this regard has been settled long back in the case of Shri Anil Ramdas Mede Vs. The State of Maharashtra and others in Writ Petition No.5090 of 2003 wherein it is stated that there is no such caste in existence as "Telgu Mannewar".

Therefore, the prefix "Telgu" attached to the word "Mannewar" has to be understood as referring to the language spoken by the persons belonging to "Mannewar" community. We therefore, find no substance in the stand so taken by the Scrutiny Community.

5. In view of above, we find that there is a patent error of law and fact committed by the Scrutiny Committee in rejecting the tribe claim of the petitioner. The impugned order cannot be sustained in the eye of law, It deserves to be quashed and set aside and it is quashed and set aside accordingly.

6. Accordingly, we direct the Scrutiny Committee to issue validity certificate to the petitioner as he belonging to "Mannewar Scheduled Tribe" within a period of three weeks from the date of receipt of this order.

Rule is made absolute in the above terms. No costs.