

(2023) 05 BOM CK 0014
In the Bombay High Court
Case No : Writ Petition No. 3824 Of 2023

Sharvari

APPELLANT

Vs

State Of Maharashtra And Others

RESPONDENT

Date of Decision : 03-05-2023

Acts Referred:

Citation : (2023) 05 BOM CK 0014

Hon'ble Judges : Ravindra V. Ghuge, J; Sanjay A. Deshmukh, J

Bench : Division Bench

Advocate : S.M. Vibhute, S.K. Tambe

Final Decision : Allowed

Judgement

Sanjay A. Deshmukh, J

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.
2. The Petitioner has challenged the order dated 30.11.2022 passed by the Scheduled Tribe Caste Certificate Verification Committee, Aurangabad.
3. The Petitioner is the student, who appeared in NEET-UG-2023, for getting admission to the medical course from Scheduled Tribe Category. She applied for tribe validity certificate to Respondent No.2. It was rejected on the ground that she failed to establish her tribe as "Mannervarlu."
4. The Petitioner contended that her paternal cousin aunt Arti Shankarrao Sudewad's tribe claim was invalidated by the Scheduled Tribe Committee, Nashik on 19.04.1995. Arti Sudewad filed Writ Petition No.2792 of 1995 before this Court and challenged the said invalidation. This Court set aside the order of the Tribe Certificate Validity Committee, Nashik and directed to issue tribe validity certificate to her, by judgment dated 02.07.2003 in Writ Petition No.2792 of 1995. Manojkumar Sambhajirao Sudewad was also invalidated by the Tribe Certificate Validity Committee by its order dated 22.06.1992. He challenged that

order in this Court by filing Writ Petition No.2953 of 1993. This Court by its order dated 09.01.2004 set aside the invalidation and directed the Tribe Validity Committee to issue Tribe validity Certificate to him. The Court observed that entry of the caste of her father as "Gavandi" in the school register is not legal and valid. Therefore, the Writ Petition of her father was allowed by this Court.

6. The claim of the paternal cousin uncle of the Petitioner viz., Karan Bhagwanrao Sudewad was validated by the Committee on 05.03.2010. Further the Committee also validated the tribe claim of paternal cousin brother of the Petitioner namely Anup Sahebrao Sudewad on 09.09.2008.

7. The vigilance committee conducted inquiry in the matter of the Petitioner and submitted its report on 01.09.2022. The Petitioner filed her detailed reply to the vigilance inquiry report on 19.09.2022.

8. The Petitioner contended that the impugned order is contrary to the material evidence on record. Reasons and findings of the Committee are not legal and correct. It is lastly prayed to quash and set aside the impugned order and direct Respondent No.2 to issue Tribe Validity Certificate of Mannervarlu, Scheduled Tribe to the Petitioner.

9. The Respondents have strongly opposed the petition and contended that the impugned order is passed with sound reasons and there is no perversity to set aside the same. The Petitioner failed to establish that she belongs to Mannervarlu Tribe. It is lastly prayed to dismiss the writ petition.

10. The learned Advocate for the Petitioner argued that the Petitioner has established her relationship with Arti Shankarrao Sudewad, who is her paternal cousin aunt. Further her father got tribe validity certificate by order of this Court. He, therefore, prayed to allow the writ petition by setting aside the impugned order.

11. The learned Additional Government Pleader submitted that the Petitioner has not established her affinity test, on the contrary, the Committee found that caste of her cousin grandfather are "Gavandi" and "Maratha" which can be seen from the concerned record, and therefore, the impugned order passed by the Committee is legal and correct. He lastly submitted to dismiss the writ petition.

12. Perused the impugned order, genealogy and the judgment of this Court (Coram : A.B. Naik & V.G. Munshi, JJ), delivered on 02.07.2003 in Writ Petition No.2792 of 1995. The genealogy shows that Arti Shankarrao Sudewad is cousin paternal aunt of the Petitioner. Manojkumar Sambhajirao Sudewad is father, who got the tribe validity certificates. No doubt, the Committee has invalidated the claims of Karan Bhagwanrao Sudewad and Arun Sahebrao Sudewad, but at the same time, there is judgment of this Court in Arti Shankarrao Sudewad (supra), in which it is held that caste of the father of Arti was mentioned as "Hindu" and word Mannervarlu was not written there, such omission does not mean that, Arti does not belong to Mannervarlu Scheduled Tribe. Similar is the position of the

Petitioner's father's claim in which his caste was written as "Gavandi", which is not at all caste, but a profession. Respondent No.2 relied upon the words "Gavandi" and "Maratha" found in the birth certificate of the cousin grandfather of the Petitioner. But when there is conclusive evidence of caste validity certificate of the paternal aunt of the Petitioner and her father, it cannot be held that the Petitioner is not belonging to "Mannervarlu" Tribe. The Committee failed to consider these aspects in its proper perspective and failed to discharge their duties and rejected the claim of the Petitioner, and also directed to take criminal action against the Petitioner illegally.

13. The reasons and findings given by the Committee deserve to be set aside, in view of the conclusive judgment of Arti Sudewad (cited supra). The Petitioner succeeded in proving her claim.

14. For the reasons discussed above, argument of the learned AGP is not acceptable.

15. Writ Petition deserves to be allowed conditionally in view of the judgment in Shweta Balaji Isankar Vs. State of Maharashtra and others Writ Petition No.5611 of 2018, decided on 27.07.2018) on the condition that if in future, in the event of invalidation of the claim of either of Arti Shankarrao Sudewad, Manojkumar Sambhajirao Sudewad and Karan Bhagwanrao Sudewad, in view of the reopening of their cases, the consequences of invalidation which would be suffered by any of these candidates, would also befall upon the petitioner and she would be liable to suffer the same consequences.

16. Respondent No.2 is directed to issue caste validity certificate in favour of the Petitioner as Mannervarlu, Scheduled Tribe, within one month.

17. Rule made absolute in the above terms.

18. No order as to costs.