

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4160 OF 1999

Rizwan Shaikh Usman
Age-24 years,
R/o. Azizpura, Mali Galli, Beed

Petitioner

V E R S U S

1 Executive Magistrate,
Aurangabad

Respondent

2 Collector And District Magistrate,
Aurangabad

3 Scheduled Tribe Certificate Scrutiny
Committee, Nashik Region, Nashik,.
Through its Deputy Director

4 State of Maharashtra

Mr.S.B. Talekar, Senior Counsel for the petitioner.
Smt.M.S. Patni, AGP for respondent nos.1 & 4.
Mr.P.S. Patil, Advocate for the Respondent No.2

**CORAM : A. V. NIRGUDE, &
A. M. BADAR, JJ.**

DATE : 15TH JUNE, 2015

ORAL JUDGMENT : [Per A.V. Nirgude, J.]

1. This petition challenges order dated 30th May, 1998, passed by the Scheduled Tribe Certificate Scrutiny committee Nasik holding that the petitioner did not prove his claim that he belonged to 'Raj Tribe'. The petitioner admittedly professes Islam.

He, however, asserted that he belonged to 'Raj' Tribe. In order to prove the claim, he placed reliance on various documents. None of these documents is of pre 1950 origin. The Committee therefore did not place much reliance on these documents. The Committee also placed reliance on the report of Vigilance Officer holding that the petitioner could not prove his affinity to the tribe. Learned counsel for the petitioner brought to our notice following sentence mentioned in the order passed by the Member Secretary, Scheduled Tribe Certificate Scrutiny Committee, Nashik, it reads as under:-

"The candidate could not establish any affinity and ethnic linkage with the stock of people belonging to Gond Scheduled Tribe Community".

2. Learned counsel for the respondent took strong objection saying that the petitioner did not claim to be a 'Gond', which is an independent Scheduled Tribe. According to him, the Committee members misdirected themselves to find whether the petitioner could prove the affinity of Gond tribe. According to him, the inquiry was vitiated because of this apparent error. He also took us through text of constitution Scheduled Tribe Order, 1950. In this order, at serial number 18, about 25 names of tribes are mentioned. These names include such as Gond, Raj.

All these names are put in one category. We may presume that this category is headed by Tribe GOND. Other names mentioned in this entry could be affiliated tribes of GOND. The words used in the order, GOND STOCK have this significance. In this background, one must read appropriate meaning in the above quoted sentence of the order. Apparently, the Committee members were referring to 'Gond' as major tribe. This major tribe probably had number of affiliated tribes which includes 'Raj'. The affinity test should first indicate that the candidate belonged to Gond stock. It is thereafter one may go further and find out whether he belonged to other affiliated tribe such as 'Raj'. Learned counsel for the petitioner took a very myopic view of the sentence. We are not inclined to accept this submission at all.

3. Learned counsel for the petitioner also placed reliance on Tribe Certificate issued in favour of sisters of the petitioner. We are examining the correctness of the order, which is referred to above. We are not aware as to in what circumstances the certificates were issued in favour of petitioner's sisters or other close relatives. We are, therefore, not inclined to give any importance to the subsequent event of issuing tribe certificates to the petitioner's sisters.

4. We find no error in the impugned order. The petition should therefore fail. The petition stands dismissed.

5. In view of disposal of this petition, Civil Application No. 4453 of 1999 stands disposed of.

(A.M. BADAR, J.)

(A.V. NIRGUDE, J.)