

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**WRIT PETITION NO. 3958 OF 2002
WITH
CIVIL APPLICATION NO. 5358 OF 2013
WITH
CIVIL APPLICATION NO. 3272 OF 2015**

1. Sheikh Rais s/o. Sk. Subhan .. Petitioners
Aged 22 years, Student,
R/o. c/o. Patel Gas Agency,
New Bhaji Mandi, Beed.
2. Patel Sk. Imran Sk. Osman
Age. 23 years, Student,
R/o. c/o. Patel Gas Agency,
New Bhaji Mandi, Beed.

Versus

1. The State of Maharashtra .. Respondents
2. The Committee for Scrutiny &
Verification of Tribe Claims,
Aurangabad.
3. The Executive Magistrate,
Aurangabad.
4. The Dean,
MIMSR Medical College,
Ambajogai Road, Latur.
5. Swami Ramanand Teerth Marathwada
University (Through its Registrar),
Nanded.

Mr. R.S. Deshmukh, Advocate for the petitioners.
Mrs.M.S. Patni, A.G.P. for respondent/State.
Mr. P.S. Patil, Advocate for respondent No.2 and for
applicant in C.A. No. 3272 of 2015.
Mr. R.B. Dhaware h/f. Mr. U.S. Malte, Advocate for
respondent No.5.

**CORAM : A.V. NIRGUDE &
A.M. BADAR,JJ.
DATED : 15.06.2015**

ORAL JUDGMENT [PER : A.V. NIRGUDE,J.] :-

1. Heard. This petition challenges judgment and order dated 17.05.2002 passed by the Tribe Claims Scrutiny & Verification Committee, Division – Aurangabad, holding that the petitioners could not prove that they belonged to “Raj – Scheduled Tribe”.

2. Several documents were submitted in support of the petitioners' claim before the Committee. Except one, all documents were of post 1950 origin. The Committee, therefore, rightly rejected the probative value of the same. The Committee rejected the probative value of

Nikahnama, which the petitioners produced on record. This Nikahnama was of wedding of grand-father of the petitioners. In this Nikahnama, the description of the petitioners' grand-father was that he belonged to "Raj" community. The Committee rejected this evidence on the ground that the people belonging to "Raj" tribe did not follow Muslim rites for the purpose of getting married. In other words the "Raj" tribe would not write down Nikahnama when they got married at the relevant time in 1940 or thereabout.

3. Learned Counsel for the petitioners questioned this reason mentioned by the committee. He also urged before this Court to form its own opinion as to why this document should be accepted or rejected. We afraid, we cannot go into this question independently. Firstly, because the Court does not possess any material which would indicate that "Raj" tribe was also writing down Nikahnama in 1940 or so though it had different rites and

customs that they followed at the time of weddings. In absence of such material, the opinion of the Committee appears to be the only reason as to why this document should be rejected. The Committee has a special knowledge in this anthropological research. In other words, the Nikahnama did not pass affinity test. Besides this document, the petitioners did not show any circumstance which would indicate their affinity to "Raj" tribe.

4. The second submission of learned Counsel for the petitioners is that the petitioners' brother, sister and cousin had already acquired caste tribe validation certificate. He placed reliance on unreported judgment of Division Bench of this Court in the case of **Shaikh Feroz Shaikh Ismail Vs. The State of Maharashtra & Ors.- W.P.No.4658 of 2006** to suggest that such certificate of near relative would amount almost to conclusive proof. We are, however, of different opinion. The law on this

subject is quite settled in the case of **Raju Ramsing Vasave Vs. Mahesh Deorao Bhivapurkar & Ors., (2008) 9 Supreme Court Cases 54.**

5. In view of this, the petition should fail. The writ petition is dismissed. Rule discharged.

6. In view of dismissal of the writ petition, Civil Application No. 5358 of 2013 does not survive and stands disposed of accordingly.

7. Learned Counsel for the applicant in Civil Application No. 3272 of 2015 seeks to withdraw the civil application with liberty to take independent proceedings for suitable action. The Civil Application is dismissed as withdrawn with liberty as prayed for.

[A.M. BADAR, J.]

[A.V. NIRGUDE, J.]