

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6158 OF 2015

Afnan D/o. Ferozkhan Pathan,
Age 17 Years, Occ. Student,
through her Guardian/Father
Feroz Khan s/o. Saheblal Pathan,
Age 45 years, Occ. Service,
R/o. Near Sadat Masjid,
Azam Colony, Roshan Gate,
Aurangabad.

... Petitioner

Versus

- 1] The State of Maharashtra
through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai - 32.
- 2] The Scheduled Tribe Certificate
Scrutiny Committee,
Aurangabad Division,
Aurangabad.
- 3] The Sub-Divisional Magistrate,
Aurangabad.
- 4] The Directorate of Medical Education,
and Research, C.E.T. Cell,
Opp. : Government Dental College,
and Hospital Building,
St. George's Hospital Compound,
Near CST Rly Station,
Mumbai - 400 001.
- 5] All India Institute of Medical Science,
Gautam Nagar,
Ansari Nagar East,
New Delhi - 110 029

...Respondents.

...
.Advocate for Petitioner : Mr. U. R. Awate, Advocate h/f Mr. S. B. Talekar
AGP for the respondent Nos.1 & 3 : Mr. S. S. Tope.
Advocate for respondent No.2 : Mr. P. S. Patil.

CORAM : A.V. NIRGUDE & A.M. BADAR, JJ.
DATE : 22nd JUNE 2015.

PER COURT:

1] Heard learned counsel for petitioner, learned AGP for respondent Nos. 1,3 and 4 and Mr. P.S. Patil, Advocate for the respondent No.2.

2] Rule. Rule made returnable forthwith. Heard finally by consent of parties.

3] Perused the impugned judgment, particularly, para.10 in which petitioner's father's validity certificate is held to be not relevant. There are few reasons mentioned in this paragraph as to why petitioner's father's validity certificate was not taken in to account as favourable evidence to the petitioner. However, apparently the Committee did not examine the record of these two cases. On the other hand the Committee examined record and came to a conclusion that one validity certificate of one relative of the petitioner is not trustworthy etc. The Committee could have examined their own record and could have given cogent reasons as to why they would reject these certificates of close relatives of the petitioner. It is settled law that validity certificates of close relatives are required to be carefully examined before rejecting or accepting them. We find that the judgment of the committee has suffered from non application of mind.

3] Considering the above, the impugned judgment is quashed and set aside. The case is remanded back to the Committee. The petitioner shall appear before the Committee on 29th June, 2015. The Committee shall decide the tribe claim of the petitioner as expeditiously as possible and preferably within 4 weeks from today.

Rule is made absolute in above terms. No costs.

[A.M. BADAR]
JUDGE

[A.V. NIRGUDE]
JUDGE.

grt/-