

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

Writ Petition No. 8636 of 2009

Manisha D/o. Bapusing Patil,
Age : 25 years,
Occupation : Service,
R/o. Dandekar Nagar, Pimpla,
Jalgaon, District : Jalgaon.

.. Petitioner.

versus

1. The State of Maharashtra,
Through Secretary,
Social Welfare Department,
Maharashtra State, Mantralaya,
Mumbai.
2. S.C., V.J.N.T., O.B.C. and Special
Backward Caste Certificate Scrutiny
Committee No.1, Nashik Division,
Nashik.

.. Respondents.

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Mr. S.S. Thombre, Advocate, for the petitioner.

*Mr. S.S. Tope, Assistant Government Pleader, for
respondent nos.1 and 2.*

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

DATE : 8TH JULY 2015

ORAL JUDGMENT (Per A.V. Nirgude, J.) :

1. Heard learned Counsel for the petitioner and the learned AGP
for the respondents.

2. Rule. Rule made returnable forthwith. By consent, heard finally.

3. The cause of action for this petition is quite peculiar. The facts leading to this petition are as under :-

The petitioner claims that she belonged to a tribe by name, '*Rajput Bhamta*' - Nomadic Tribe. She obtained tribe certificate from the competent authority and when her certificate was sent for validation, after hearing both sides, respondent no.2 - Committee delivered two judgments. Two Members of the Committee, by majority, held that the petitioner could prove her claim. On the other hand, the third Member, who happens to be the Chairman of the Committee, opined that the petitioner had failed to prove her claim. The petitioner learnt about this difference of opinion between the Members of the Committee. She obtained copy of judgment delivered by two Members. She waited for required certificate to be issued, but in vain. She, therefore, came before this Court for seeking direction, that certificate should be issued. She obviously believed that since the Committee comprised of three Members, the majority view would prevail.

4. The petition is opposed on behalf of the respondents. In reply, it is said that since there was difference of opinion between the Members of the Committee, no validation certificate was issued. The respondent did not place reliance on any rule to support this stand. In 2008, when this claim was decided, and in 2009, when the petitioner filed the petition, there were no rules framed. Rules were framed in 2012. But

we should decide this petition as per the situation that prevailed in 2008-09 when the cause of action arose. The question is, whether the Committee is able to refuse issuance of validation certificate if there is difference of opinion between the Members of the Committee. The answer is obviously in negative. It is common sense, that if a forum is comprised of three Members, the majority view would prevail. The minority view would certainly be expressed and would be recorded. Nonetheless, decision would be that of majority Members. In such situation, even though the reasons recorded by the Chairman, refusing to accept the claim of the petitioner, are convincing, there was no scope for the Committee for withholding the issuance of certificate. It will not be out of place to state that when the Rules are made in 2012, similar provision is made.

5. In the result, the petition is allowed.

Respondent no.2 - Committee is directed to issue caste validity certificate to the petitioner as per its order dated 9th July 2008. Such certificate be issued within a period of four weeks from today.

6. Rule is made absolute in the above terms. There shall be no order as to costs.

(A.M. BADAR)
JUDGE

(A.V. NIRGUDE)
JUDGE

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