

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.253 OF 2016

Shubhada Ramkishan Rathor,
Age-17 years, Occu:Student,
Through Natural Guardian,
Ramkishan Babulal Rathor,
Age-Major, Occu:Service,
R/o- Balaji Mandir, House No.4-7-15,
Mondha Road, Navabpura, Aurangabad.

...PETITIONER

VERSUS

The State of Maharashtra,
Through its Secretary,
Department of Tribal Department,
Mantralaya, Mumbai
and others.

...RESPONDENTS

...

Mr.A.S. Bayas Advocate for Petitioner.
Mr.A.B. Girase, Government Pleader for
Respondents.

...

**CORAM: R.M. BORDE AND
A.I.S. CHEEMA, JJ.**

DATE : 8TH JANUARY, 2016

ORDER :

1. Heard learned counsel appearing for the

respective parties.

2. The Petitioner is objecting to the order passed by the Deputy Collector, Aurangabad dated 5th January 2016 refusing to issue tribe certificate as requested by the Petitioner.

3. The Petitioner wants the tribe certificate for submitting registration form for JEE-MAIN Examination. Since the application was not decided by the Sub Divisional Officer expeditiously, as such she approached this Court by presenting Writ Petition No.12428 of 2015, which came to be allowed by the Division Bench of this Court on 23rd December 2015 and the Sub Divisional Officer was directed to take decision on the application, on or before 29th December 2015. In the impugned order, although on the top of page, date of order is mentioned as "30.12.2015", but the Deputy Collector appears to have signed the order on 5th January 2016. The

whole approach of the Deputy Collector, Aurangabad is erroneous.

4. It is not a matter of dispute that father of the Petitioner as well as her grand father are holders of tribe certificate issued by the competent authority certifying that they belong to Thakur, Schedule Tribe. Apart from this, there are validation certificates issued in favour of the blood relatives of the Petitioner. School record in respect of the Petitioner records her caste as "Thakur, Scheduled Tribe". There is sufficient prima facie evidence to substantiate the contention of the Petitioner that she belongs to Thakur, Scheduled Tribe. It is time and again reiterated by this Court in several Judgments that caste/tribe certificate shall have to be issued by the competent authorities on prima facie considerations and a person receiving the caste/tribe certificate is not entitled to claim any benefit under the Government policy unless the

certificate is validated by the competent scrutiny committee. At the stage of scrutiny of the certificate the matter can be dealt with by the Scrutiny Committee in detail and in-depth inquiry is contemplated at that stage, including the inquiry at the instance of Vigilance Cell.

5. As has been stated above, there is sufficient material to conclude that the Petitioner is entitled to receive the tribe certificate from the competent authority. In this view of the matter, the Deputy Collector, Aurangabad and Sub Divisional Officer, Aurangabad is directed to issue tribe certificate in favour of the Petitioner as belonging to "Thakur, Scheduled Tribe", forthwith.

6. With the directions as above, the Writ Petition stands disposed of.

. It is clarified that the observations

made in the instant order are of prima facie nature and shall not be considered as opinion expressed as regard to the tribe status of the Petitioner, which will have to be considered at the stage of validation of tribe certificate.

. The parties to act upon authenticated copy of this order.

[A.I.S. CHEEMA, J.]

asb/JAN16

[R.M. BORDE, J.]