

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10279 OF 2017

Trupti d/o Pandurang Rudre
age minor, occ. Education
r/o Pimpaldari Tq. Gangakhed
Dist. Parbhani
Through Natural Guardian/Father
Pandurang s/o Bapurao Rudre
age 42 years, occ. Service
r/o as above.

Petitioner

Versus

1. The Union of India
Through its Secretary to
Ministry of Human Resource Development
Department of Science and Higher Education
Government of India
2. The Principal
Jawahar Navodaya Vidyalaya,
Ministry of Human Resource Development
Department of Science and Higher Education
Government of India
Balsa, Marathwada Agriculture University Area
Parbhani, Tq. Parbhani
Dist. Parbhani
3. The Sub Divisional Officer, Gangakhed
Dist. Parbhani

Respondents

Mr. S.M. Vibhute, advocate for petitioner.
Mr. S.B. Pulkundwar, A.G.P. for respondent no. 3.
Mrs. Deepali Ansingkar, advocate for respondents 1 and 2.

**CORAM : R.M.BORDE &
S.M. GAVHANE, JJ.**
DATE : 22nd AUGUST, 2017

ORAL JUDGMENT : (PER R. M. BORDE, J.)

1. Rule. Rule made returnable forthwith.
2. Heard finally with the consent of learned counsel for the respective parties.
3. Petitioner has challenged the order passed by the Sub-Divisional Officer, Gangakhed on 21.07.2017 thereby turning down the request of the petitioner for issuance of caste certificate.
4. Petitioner claims to be belonging to Koli Mahadev caste and has requested the Sub Divisional Officer by tendering application in prescribed form to issue tribe certificate. Alongwith the application, petitioner tendered tribe validation certificate issued in favour of her real uncle Sadashiv Bapurao Rudre. Father of the petitioner, Pandurang Rudre, has been issued tribe certificate by the Executive Magistrate on 09.01.1992. Real brother of petitioner has been issued tribe certificate by the competent authority i.e. Sub Divisional Officer, Parbhani on 13.06.2012. School record of petitioner records entry in respect of her caste as Mahadev Koli. In spite of production of sufficient documentary evidence to substantiate the claim, the Sub-Divisional Officer, Gangakhed has proceeded to reject the application on the ground that father of petitioner has not been issued validation certificate and the proposal in respect of grant of validity in his favour is stated to be pending.
5. The Sub-Divisional Officer has adopted a perverse approach in the matter and has disobeyed the directions issued by this Court in several identical matters. It has been recorded by this

Court in several judgments that caste/tribe certificate is required to be issued by the issuing authority on the basis of prima facie material and indepth enquiry at the stage of issuance of tribe/caste certificate is not contemplated. In the instant matter, there is sufficient evidence even for grant of validation certificate in favour of petitioner since her blood relation i.e. real uncle is in receipt of validation certificate issued by the competent authority.

6. The decision of the Sub-Divisional Officer of denying to issue tribe certificate in favour of petitioner who is a school going child amounts to putting unnecessary hardship on the family belonging to socially backward strata of the society. In the circumstances, in view of facts stated above, we deem it appropriate to allow the petition and quash the order passed by the Sub-Divisional Officer, Gangakhed on 21.07.2017. The Sub-Divisional Officer, Gangakhed is directed to issue tribe certificate as requested by petitioner within three days from today. Petitioner, who is required to approach this Court without any fault on her part is required to be compensated by the State by paying cost of Rs. 10,000/-. Respondent -State is directed to pay cost of Rs. 10,000/- to the petitioner within a period of three weeks from today. It would be open for the State to collect the amount from the erring official. Respondent-Jawahar Navodaya Vidyalaya shall permit the petitioner to secure admission subject to tendering of the caste certificate. The concerned Sub-Divisional Officer to show cause as to why action shall not be taken against him for overlooking the orders passed by this Court earlier and putting petitioner to hardship. Notice be made returnable within a period of three weeks from today.

7. Rule made absolute accordingly.

(S.M. GAVHANE)
JUDGE

(R.M.BORDE)
JUDGE

dyb