

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

967 WRIT PETITION NO. 5888 OF 2018

UMARKHAN FEROZKHAN PATHAN

..PETITIONER

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS ..RESPONDENTS

...

Ms. P. S. Talekar, Advocate for the Petitioner.

Mr. S. B. Yavalkar, AGP for Respondent-State.

Mr. Dhananjay P. Deshpande, Advocate for the Respondent No.4.

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**CORAM : S. V. GANGAPURWALA &
SUNIL K. KOTWAL, JJ.**

DATED : 22nd JUNE, 2018.

PER COURT:-

1. The caste claim of the petitioner is invalidated on the ground that the authority who had issued tribe certificate lacks territorial jurisdiction.

2. It has been observed by the committee that the caste certificate issued by S.D.O., Aurangabad was without jurisdiction and the petitioner's parents were permanent resident from Ahemadnagar district.

3. Ms. Talekar, learned counsel for the petitioner submits that tribe certificate of

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'Tadvi' Scheduled Tribe is issued in favour of the father of the petitioner in the year 1997 by the Competent Authority at Aurangabad. The tribe claim of the father of the petitioner has been validated by the Competent Authority at Aurangabad. The tribe certificate of the real sister of the petitioner was also issued by the Competent Authority at Aurangabad, the same was invalidated by the committee and this Court in writ petition number 6465/2016 under order dated 29.09.2016 allowed the writ petition thereby setting aside the judgment of the committee and directing the committee to issue validity certificate to the real sister of the petitioner. One real uncle of the petitioner has also been issued with the validity certificate under order of this Court. The committee has also issued validity certificate in favour of the another uncle of the petitioner. The petitioner since the days of his forefather is resident of Aurangabad since 1915.

4. Mr. Yavalkar, learned AGP submits that the places of residence of the candidate shall be the place of permanent abode of their grandfather at the time of the Notification of the Presidential Order for Scheduled Tribe as specified in explanation to Rule 5(2) of the Maharashtra Scheduled Tribe (Regulation of Issuance and Verification) of Caste Certificate Rules, 2003. In

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view of that, the committee has not committed any error in passing the impugned order.

5. It would appear that the committee at Aurangabad had issued validity certificate in favour of the father of the petitioner on the basis of tribe certificate issued by the Competent Authority at Aurangabad. The real sister of the petitioner has also been issued the validity certificate under the order of this Court, wherein the tribe certificate was issued by the Competent Authority at Aurangabad. Two real uncles of the petitioner have also been issued with the validity certificate on the basis of the tribe certificate issued by the Competent Authority at Aurangabad. Consistently it has been held that the petitioner and their forefather are resident of this Aurangabad region and validities are issued sometime by the committee and twice by this Court. No such evidence appears that in the year 1950, the petitioner's forefather were residing at Pathardi only.

6. Considering the aforesaid aspects of the matter, the impugned order is quashed and set aside. The committee shall decide the validation proceedings on its own merits. It is held that the tribe certificate is issued to the petitioner by the Competent Authority. The petitioner shall appear before the committee on 26.06.2018.

7. Considering the fact that the petitioner is exploring chances of taking admission in M.B.B.S. Course, the committee shall decide the proceedings by 02.07.2018.

8. It is also submitted that vigilance has also been completed. The committee shall certainly consider the validities issued in favour of the father of the petitioner, the real sister of the petitioner and two real uncles of the petitioner. The application of the petitioner shall provisionally be accepted by the authorities, subject to the decision of the committee in the validation proceedings.

9. Parties to act on the authenticated copy of this order.

10. Writ Petition accordingly stands disposed of. No costs.

(SUNIL K. KOTWAL)
JUDGE

(S. V. GANGAPURWALA)
JUDGE