

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

966 WRIT PETITION NO. 8532 OF 2018

UMARKHAN FEROZKHAN PATHAN

..PETITIONER

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS ..RESPONDENTS

...

Mr. U. R. Awate h/f M/s. Talekar and Associates,
Advocates for the Petitioner.

Mr. P. S. Patil, AGP for Respondents-State.

Mr. N. D. Narwadkar, Advocate for Respondent No.4.

Mr. Kishor C. Sant, Advocate for Respondent No.6.

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

DATED : 01st AUGUST, 2018.

PER COURT:-

1. Leave to correct the title cause with regard to the respondent no.4.

2. The petitioner assails the judgment delivered by the Scrutiny Committee validating the caste claim of the petitioner as belonging to the "Tadvi" Scheduled Tribe.

3. Mr. Awate, learned counsel for the petitioner submits that the father of the petitioner has been granted validity certificate by the committee in the year 1999. The caste claim of the real sister of the petitioner was invalidated.

The real sister of the petitioner filed writ petition in this Court bearing Writ Petition No.6465 of 2016. This Court under order dated 29.09.2016 allowed the writ petition and directed the committee to grant validity certificate to the real sister of the petitioner, as belonging to "Tadvi" Scheduled Tribe. The learned counsel submits that there is no contra evidence on record. The record shows that the caste is either recorded as Tadvi or Muslim.

4. Mr. Patil, learned A.G.P. for respondents submits that earlier validity certificates were obtained by fraud. The relatives of the petitioner whose certificates are relied upon suppressed the real and material fact. As the fraud has been committed, the show cause notices were issued to the validity holders seeking explanation from them. The learned counsel submits that the committee has decided to submit the proposal to the Law and Judiciary Department to file Review of the order passed by this Court in Writ Petition No.6465 of 2016 dated 29.09.2016.

5. The learned A.G.P. has further placed on record the copies of the order passed by the Division Bench at the Principal Seat at Bombay in the same circumstances.

6. We have considered the submissions canvassed by the learned counsel for the respective

parties, so also gone through the judgment delivered by this Court in Writ Petition No.7485 of 2018 dated 25.07.2018 and all other connected writ petitions.

7. It is a matter of record that the father of the petitioner has been issued with the validity certificate of "Tadvi" Scheduled Tribe. The real sister of the petitioner has also been issued with the validity certificate of "Tadvi" Scheduled Tribe under the orders of this Court. The validity certificates issued in favour of one real aunt, so also two real uncles of the petitioner are also placed on record.

8. It has been observed in the earlier proceedings that the contra evidence does not exist. The committee has observed that the Aziz Khan Tadvi whose validity was relied while obtaining the validity of the real uncle of the petitioner has filed an affidavit stating that the relation shown at the time of obtaining the validity are false and incorrect. On the basis of erroneous genealogy shown, the earlier validity was obtained and as such fraud was committed.

9. It is submitted that, even, show cause notices are issued to the persons who have been given the validity and which is relied by the petitioner.

10. Considering the anomalous situation, the Division Bench at Principal Seat at Bombay has taken a view that, in such cases the directions can be issued to grant validity certificate, however, the same would be subject to the outcome of the show cause notice issued in favour of the petitioner. Considering the above, we follow the same course.

11. The committee shall issue the validity certificate to the petitioner of "Tadvi" Scheduled Tribe. As the committee has already initiated proceedings for cancellation of validity issued to the blood relations of the petitioner and if the committee thereafter holds to cancel the validity given in favour of the paternal relatives of the petitioner, then, it shall be open for the respondents to issue show cause notice to the petitioner, as to why the validity certificate granted to the petitioner could not be cancelled and committee may take up the further proceedings in accordance with law. The validity certificate issued to the petitioner is subject to the outcome of the proceedings for cancellation of validity to the real father of the petitioner, so also will be subject to further orders that would be passed in case review is filed to the judgment delivered in Writ Petition No.6465 of 2016. The validity certificate shall be issued by 02.08.2018.

12. The writ petition is disposed of. No costs.

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

(SUNIL K. KOTWAL)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

Devendra/August-18