

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

WRIT PETITION NO. 8852 OF 2018

Shital Ganesh Bassi.

Petitioner.

Versus

State of Maharashtra and others.

Respondents.

Mr. A.S. Bayas, Advocate for the petitioner.

Mr. P.S. Patil, A.G.P. for the State.

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

Dated : **2nd August , 2018.**

FINAL ORDER :-

. Mr. Bayas, the learned Counsel for the petitioner submits that the entire record shows that the petitioner belongs to 'Naikda' Scheduled Tribe. The petitioner was issued Tribe Certificate of Naikda Scheduled Tribe. The Committee, while invalidating the Tribe Claim of the petitioner, has not properly considered the Validity Certificate granted in favour of the father, two real uncles and two real cousins of the petitioner. In the case of two real cousins of the petitioner, the Committee had invalidated the Tribe Claim. They had approached this Court. This Court in Writ Petition No. 889 of 2017

under the judgment and order dated 04.08.2017, allowed the Writ Petition and directed the Committee to issue Validity Certificates to them. The learned Counsel submits that even the revenue record of 1358 Fasli (1948 A.D.) records the caste of the great grandfather of the petitioner as 'Naikda'. The learned Counsel submits that the discrepancy appeared in the school record was also considered by this Court in its judgment dated 04.08.2017 in Writ Petition No. 889 of 2017. The Court had considered the efficacy of the same and thereafter had granted the validity in favour of the real cousin brothers of the petitioner.

2. Mr. Patil, the learned Additional Government Pleader submits that it is a case of fraud being played by the petitioner and her father and real uncles upon the Committee and cousin brothers of the petitioner namely Prakash and Vikas over this Court. The Education Officer had directed enquiry to be conducted with regard to the school record of the petitioner's father and uncles and the five members Committee was appointed. They conducted enquiry and it was found that the entire school record has been manipulated. The original caste written in the school record has been erased and Naikda caste is recorded subsequently. The report has been submitted in the year 2007. This report has been suppressed by the petitioner. This report would clearly show that a fraud has been

committed by the petitioner and father and uncles of the petitioner. The Committee has also issued show-cause notices to the father and uncles of the petitioner calling explanation from them as to why their claim should not be invalidated. Even a proposal is being considered to be submitted to the Law and Judiciary Department for seeking permission to file review of the orders of this Court dated 04.08.2017 in Writ Petition No.889 of 2017.

3. We have considered the submissions canvassed by the learned Counsel for the respective parties.

4. A tribe claim of the real cousin brothers of the petitioner namely Prakash and Vikas was the subject-matter of consideration before this Court in Writ Petition No. 889 of 2017. This Court, while allowing the Writ Petition, considered the discrepancy in the school record and also letter of the Tahsildar with regard to revenue record of 1358 Fasli. It has considered the contents of the same and thereafter decided the issue of validity in favour of the petitioners therein. Of course, the report by the Committee appointed by the Education Officer to verify the school record was not brought to the notice of this Court while deciding the earlier Writ Petition No. 889 of 2017. The Court had considered the efficacy of the change in ink and some discrepancy in the school record.

5. It is a matter of record that validity certificate is issued in favour of the father and two real uncles of the petitioner. The validities in favour of the father and real uncles of the petitioner have not yet been set aside, though it is stated by the respondents that show-cause notices are issued to them for reconsideration of their validities.

6. Similar situation had arisen before the Principal Seat at Bombay wherein it was directed to give validity certificate subject to decision that would be taken pursuant to the show-cause notices issued to the parents of the petitioner therein. A reference can be had to the judgment of the Division Bench at Principal Seat of this Court in Writ Petition No. 7920 of 2018 decided on 26th July 2018 and in the said case also the validity was granted in favour of the petitioner's father and the Committee had subsequently issued show-cause notice for reconsideration of the validity.

7. In light of the above, we follow the same course.

8. The respondent-Committee shall issue validity certificate to the petitioner of Naikda Scheduled Tribe. The same shall be subject to the outcome of the show-cause notices issued in favour of the petitioner's father Ganesh Bassi and real uncles, so also would

be subject to further decision in the case the review is filed of the judgment dated 04.08.2017 in Writ Petition No.889 of 2017. The validity certificate, in view of the above observation, shall be issued by 3rd August 2018.

9. Writ petition is disposed of. No costs.

(SUNIL K. KOTWAL)
JUDGE

(S.V. GANGAPURWALA)
JUDGE

vdd/