

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.9943 OF 2018

Payal D/o Rajesh Paralikar,
Age: 18 years, Occu: Student,
R/o Suman Nivas, Block No.2,
Ayodhya Nagari, Malegaonroad,
Taroda, Nanded, Dist. Nanded

Petitioner

Versus

- 1 The State of Maharashtra,
Department of Tribal Development,
Mantralaya, Mumbai - 32
through its Secretary
- 2 The Scheduled Tribe Certificate
Scrutiny Committee, Aurangabad Region,
Aurangabad
through Its Member Secretary,
- 3 The Commissioner & Competent Authority,
State Common Entrance Test (CET) cell,
8th Floor, Near Excelsior Building,
A.K. Nayak marg, Fort, Mumbai 400 001
- 4 The Director of Technical Education,
Maharashtra, 3 Mahapalika Marg,
Letter box No.1967, Mumbai 400 001
- 5 The Dean/Principal,
Shrinath College of Pharmacy (B.Pbarmacy)
Aurangabad,
P-119, Maharana Pratap Chauk
Bajajnagar, MIDC, Waluj, Aurangabad

Respondents

Mr. Vivek U. Jadhav, advocate for petitioner

Mr. P.S. Patil, Assistant Govt. Pleader for Respondents No.1 to 3

Mr. S.G. Karlekar advocate for respondent No.4

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CORAM : **R.M. BORDE AND**

MANGESH S. PATIL, JJ

Date : 30th AUGUST, 2018

ORAL JUDGMENT

(Per: R.M. Borde, J)

1 Heard.

2 Rule. With the consent of the parties, petition is taken-up for final decision at admission stage.

3 The petitioner claims to belong to *Rajgond*, scheduled tribe and is in receipt of tribe certificate issued by the competent authority, certifying accordingly. Since the petitioner was desirous of securing admission to professional course, the tribe certificate issued to petitioner has been referred to the scrutiny committee for verification. The scrutiny committee, after considering the evidence placed on record by the petitioner and on consideration of the vigilance cell report, has turned down the claim of the petitioner and directed cancellation and confiscation of the certificate.

4 The petitioner, in order to substantiate his claim, has placed reliance upon the validation certificates issued to members of his family and 14 blood relations related from parental side including the validity certificate issued to real uncle of the petitioner namely Vitthal madhavrao Paralikar dated 15.7.2006. The names of the validation certificate holders, their relation with the petitioner and the date of issuance of validation certificates are recorded below:-

Sr.No.	Name of the validity holders	Relation with the petitioner	Date of validation
1	Vijaykumar Kondiba Paralikar	Cousin uncle	1.7.2004
2	Chandrakant Keshavrao Paralikar	Cousin brother	3.11.2006
3	Chetak Kumar Subhash Paralikar	Cousin brother	5.4.2006
4	Vitthal Madhavrao Paralikar	Uncle	15.7.2006
5	Shubhangi Kondibarao Paralikar	Cousin Aunt	10.11.2006
6	Prajakta Jyotiba Paralikar	Cousin sister	13.12.2006
7	Sachin Keshavrao Paralikar	Cousin brother	9.1.2007
8	Dilip Kondiba Paralikar	Cousin uncle	15.1.2008
9	Subhash Kondiba Paralikar	Cousin uncle	15.1.2008
10	Sandip Prakashrao Paralikar	Cousin brother	12.9.2008
11	Vikram Vijaykumar Paralikar	Cousin brother	31.12.2008
12	Shital Vijay Paralikar	Cousin sister	4.7.2009
13	Sadhana Prakashrao Paralikar	Cousin sister	19.1.2011
14	Sapna Prakashrao Paralikar	Cousin Sister	19.1.2011

5 According to the scrutiny committee, all the validation certificates have been obtained by suppressing material facts. It has been recorded in the matter that after thorough

investigation, it has been revealed that in case of certain individuals there appears to be interpolation in the documentary record such as school record and this aspect has not been noticed by the earlier Scrutiny Committee, while issuing validation certificates. Reference is made to certain so called entries in respect of relatives of the petitioner for contending that there is interpolation in the school record. However, the petitioner has neither been directed to explain the aforesaid documentary evidence, nor does it appear that those so called relatives have been issued validation certificates. The petitioner had not been given any opportunity to meet the allegations. The reference appears to have been made to this aspect for the first time in the Judgment of the scrutiny committee. So far as the reference relating to entries in respect of the father of the petitioner and the alleged interpolation is concerned, it appears that the correction appears to have been made simultaneously when original entries are recorded. There does not appear to be any difference in ink or handwriting. Had the petitioner been given opportunity, he would have tendered explanation. However, isolated entry relied upon from the school record of the father of the petitioner shall not dis-entitle her to claim validation certificate on the face of voluminous evidence placed on record including validation certificates of 14 blood relations of the

petitioner.

6 It is informed by the learned AGP for the State that the Scrutiny committee has decided to take review of the orders passed earlier in respect of blood relations of the petitioner and notices have also been issued to some of the blood relations.

It would be open for the scrutiny committee to conduct an enquiry and take appropriate decision in those matters, wherein, notices have been issued. However, considering the validation certificates granted in favour of 14 blood relations of the petitioner, including the real uncle and considering the Judgment and order dated 23.7.2018 in Writ petition No.7500/2018 passed by the Division Bench of this Court at Principal Seat, Mumbai, it would be appropriate to direct the scrutiny committee to issue validation certificate as requested by the petitioner subject to outcome of the review proceedings in respect of the blood relations of petitioner, to whom show cause notices are said to have been issued.

7 In view of the discussion as above, the respondent committee is directed to issue validation certificate to the petitioner immediately so as to facilitate her to secure admission to B. Pharmacy course. The validation certificate shall be issued

by tomorrow. In the event of failure of the scrutiny committee to issue validation certificate by tomorrow, the concerned institution i.e. respondent No.5 college where the petitioner has secured admission, shall not cancel her admission. It would be open for the petitioner to produce the authenticated copy of this order to concerned admission authority.

8 Rule is accordingly made absolute in the above terms.

9 There shall be no order as to costs.

(MANGESH S. PATIL, J)

(R.M. BORDE, J)