

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

943 WRIT PETITION NO.8639 OF 2019

**YOUNUS KHAN CHAND KHAN PATHAN
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...

**WITH
WRIT PETITION NO.8706/2019**

**TAHOORA FIRDOUS YOUNUS KHAN PATHAN
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...

**Advocate for Petitioners : Vibhute Sunil M.
Addl.GP for Respondents: P.S.Patil**

**CORAM : S.V.GANGAPURWALA &
MANGESH S. PATIL, JJ.**

DATE : 17/07/2019

PER COURT :

The tribe claims of the petitioners are invalidated. The petitioners in both these Writ Petitions are the father and daughter. Their caste claim as belonging to Tadvi (Scheduled Tribe) is invalidated.

2] Mr.Vibhute, learned counsel submits that validity certificates are issued to the family members of the petitioners such as cousin brothers of Pathan Younus Khan. Four cousin brothers of Younus Khan have been granted validity certificates. The learned counsel submits that there are no contra evidence on record. The Nikahnama of the grand father of the petitioner of the year 1939 is also produced on record. The said Nikahnama records the caste as Tadvi.

3] Mr.Patil, learned Additional Government Pleader submits that the petitioner has not produced the original Nikahnama and only xerox copy was produced. The same could not have been considered. The learned Addl.Govt.Pleader further submits that in the document of Gulabkhan the caste Tadvī has been inserted subsequently. So also the committee has observed about interpolation in the record of Sannaullah Khan Yunus Khan. The learned Addl.Govt.Pleader submits that the petitioner also could not succeed in affinity test.

4] We do not find that the documentary evidence would be of much assistance to the petitioner. Ofcourse if the Nikahnama of the years 1939 and 1960 recorded the caste as Tadvī then the same would be evidence carrying high probative value however, Nikahnama will have to be proved by the petitioners. The petitioners has not even produced the original Nikahnama though the translation alongwith xerox copy is produced.

5] The learned counsel submits that opportunity be given to the petitioners to produce the said Nikahnama before the Committee and prove the same.

6] Considering the above, impugned judgments are quashed and set aside. The petitioners shall appear before the Committee tomorrow i.e. **on 18/7/2019** and may submit the original Nikahnama before the Committee. The Committee shall consider the said Nikahnama if produced by the petitioners and take decision afresh. Considering that the petitioner Tahoorā is seeking admission in the medical course, the Committee if it is possible, shall decide the claim by 19/7/2019.

7] Writ Petitions are disposed of. No costs.

(MANGESH S. PATIL,J.)

(S.V.GANGAPURWALA,J.)

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