

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

1027 WRIT PETITION NO.9607 OF 2019

**MANSI SHYAM IBATTE
VERSUS
THE STATE OF MAHARASHTRA AD OTHERS**

**...
Advocate for Petitioner : Bayas Anandsingh
AGP for Respondents: P.S.Patil**

WITH

WRIT PETITION NO.9701 OF 2019

**PAVAN GOVIND IBATTE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

**...
Advocate for Petitioner : Bayas Anandsingh
AGP for Respondents: P.S.Patil**

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

DATE : 02/08/2019

PER COURT :

The tribe claim of the petitioners as Rajgond (Scheduled Tribe) is invalidated. It is submitted that show cause notice is issued to the validity holders relied by the petitioners.

2] Mr.Bayas, learned counsel for the petitioners submits that the father of the petitioners Shyam and Govind are issued with the validity certificate of Rajgond (S.T.). The real paternal uncle and real paternal aunt of the petitioners viz. Shivaji and Mahananda are issued with the validity certificates of Rajgond (S.T.). One second degree

cousin of the petitioner Abhilasha is issued with the validity certificate under the order of this Court at the principal seat at Bombay in Writ Petition No.7510/2018 under judgment dated 30/7/2018.

3] The learned counsel submits that in the school record of the petitioners' grand father, cousin grand father, uncle, the caste is recorded as Rajgond and/or Telang. The learned counsel submits that Telang is not a caste but is a description relating to the area from where the person belongs. According to the learned counsel the committee has considered Telang to be contra entry and thereafter passed impugned order.

4] Mr.Patil, learned Addl.GP submits that Telang is a language spoken by the Kakus and Johar Kakus, who normally belong Mannur or Mannurwar. The learned counsel submits that the petitioner has failed in the affinity test also.

5] We have considered the submissions. The relationship and the issuance of validities to the persons as referred to above is not disputed. The Division Bench of this Court at the Principal seat at Bombay in Writ Petition No.10388/2017 under judgment dated 5/10/2017 has observed as under :

“6] In our considered view, “Telang” is not a caste but is a surname or the description relating to the area from where the person belongs and “Hindu” is also not a caste but is a religion.”

6] The school record of the petitioners, their fathers and their cousins record caste as Rajgond whereas the school records of the petitioners' father record caste as Telang (Rajgond) and in case of some of the relatives the caste is recorded as Telang. Considering the

observations of Division Bench of this Court in Writ Petition No.10388/2017 referred supra, and the validities issued in favour of the persons referred to above and the issuance of validity certificate to Abhilasha the second degree cousin of the petitioners under the order of this Court at Principal seat in Writ Petition No.7510/2018 dated 30/7/2018 the impugned judgment is quashed and set aside.

7] The committee shall issue validity certificate to the petitioners of Rajgond (S.T.) immediately. The same shall be subject to the decision that may be taken by the committee in respect of the validity holders on which the petitioners rely and if review is filed of the order in Writ Petition No.7510/2018 (i.e. in the case of Abhilasha) and said order is reviewed. Writ Petitions are disposed of. No costs. The present order is limited to the extent of the petitioners.

(MANGESH S. PATIL,J.)

(S.V.GANGAPURWALA,J.)

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