

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

965 WRIT PETITION NO.446 OF 2021

YOGINI PARMESHWAR CHOUDHARI AND ANOTHER
VERSUS
DIRECTOR OF TECHNICAL EDUCATION AND OTHERS

...
Advocate for Petitioners :Mr. Deshmukh Mahesh S.
AGP for Respondents State: Mr. A.R.Kale

CORAM : S. V. GANGAPURWALA &
SHRIKANT D. KULKARNI, JJ.

DATE : 13th January, 2021

ORDER:

1. The tribe claims of the petitioners as belonging to the "Rajgond", Scheduled Tribe are invalidated by the common judgment.

2. Mr. Deshmukh, learned counsel for petitioners submits that the documents placed on record suggest that petitioners belong to "Rajgond", Scheduled Tribe. All the documents of petitioners, their father, grandfather, sisters, uncles referred to the tribe as "Rajgond", Scheduled Tribe. The real sister of petitioners namely Dipali is issued with the validity certificate of "Rajgond", Scheduled Tribe. The real uncle of petitioners namely Vijay is issued with the validity certificate of "Rajgond", (Scheduled Tribe).

3. The learned counsel submits that there are six validities in the family of petitioners. The learned counsel further submits that the Committee has relied upon the school entries of some of the record of the father, uncle where tribe is recorded as Telang. Telang is not tribe, but is referable to the region. According to the learned counsel the school entry of the Telang in the uncle's school record was subject matter of

consideration when the Vijay was granted validity. There are no contra entries on record. The learned counsel submits that the affinity test is not the litmus test. The learned counsel relied on the judgment of the Apex Court in case of **Anand Vs. Committee reported in (2012) 1 SCC 113** . The learned counsel also relied on the judgment in case of **Apoorva Nichale Vs. Divisional Caste Scrutiny Committee reported in (2010) 6 Mh.L.J. 401**.

4. Mr. Kale, learned A.G.P. submits that in the school record of the father of the petitioner, so also uncle, paternal aunt, cousin sister the tribe is recorded as Telang and not "Rajgond", Scheduled Tribe. In some of the relatives of the petitioners, tribe is recorded as Goud Telang. These are contra entries. The petitioners have failed to prove the affinity test. The show cause notices are issued to the validity holders relied by petitioners. The Committee has rightly considered all the aspects and negated the claims of petitioners.

5. It is matter of record that the real uncle of petitioners is issued with the validity certificate of "Rajgond", Scheduled Tribe. The real sister of the petitioners is also issued with the validity certificate of "Rajgond", Scheduled Tribe. The cousin uncle of the petitioners namely Ishwar S/o Irappa, Siddheshwar S/o Irappa, so also paternal aunt of the petitioners namely Shital D/o Namdeo and Pooja D/o Namdeo are issued with the validity certificate of "Rajgond", Scheduled Tribe. Another paternal cousin Uncle of the petitioners namely Mahesh S/o Madhavrao is also issued with the validity certificate of "Rajgond", Scheduled Tribe. Some of the entries recorded as Telang in the paternal relatives of petitioners were also

considered in case of Vijay, real cousin of petitioners while granting validity to him.

6. It is further submitted that the show cause notices are issued to the validity holders relied by petitioners. The school entries of petitioners, their father, uncles, paternal aunt are placed on record recording tribe as "Rajgond", Scheduled Tribe.

7. In light of the above, we pass the following order:

ORDER

- A. The Committee shall issue validity certificate to petitioners as "Rajgond", Scheduled Tribe immediately.
 - B. The said validity shall be subject to the decision that would be taken by the Committee in the proceedings reopened of the validity holders relied by petitioners.
8. Writ Petition is disposed of. No costs.

(SHRIKANT D. KULKARNI, J.)

(S.V.GANGAPURWALA, J.)

JPC