

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8616 OF 2021

AZAZKHAN ASHRAFKHAN PATHAN
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr. Vibhute Sunil M.
AGP for Respondent – State : Mr. S.K. Tambe
Advocate for respondent no. 4 and 5 : Mr. C.K. Shinde

...

**CORAM : S. V. GANGAPURWALA AND
R. N. LADDHA, JJ.**

DATE : 01st DECEMBER, 2021

PER COURT :-

1. The caste claim of the petitioner as “Tadvi” Scheduled Tribe is invalidated. Mr. Vibhute, learned counsel for the petitioner submits that real brother of the petitioner, namely, Eqbalkhan Ashrafkhan Pathan is issued with validity certificate of “Tadvi” Scheduled Tribe. The real paternal uncle of the petitioner, namely, Mohd. Ayubkhan S/o Mohd. Raufkhan is also issued with validity certificate of “Tadvi” Scheduled Tribe. The real cousin of the petitioner, namely, Irshad Khan S/o Yusufkhan is also issued with validity certificate of “Tadvi” Scheduled Tribe.

2. Learned counsel for the petitioner submits that there is not a single contra entry. The entry of “Muslim” is not a contra entry. Learned counsel relies upon the judgment of the Division Bench of this Court in the case of *Apporva Vinay Nichale Versus Divisional Caste Certificate Scurtyny Committee No.1 and others* reported in *2010 (6) Mh.L.J. 401.*

3. Learned AGP appearing for respondent - State submits that in majority of the record, the caste is shown as “Muslim” and not as “Tadvi”. According to learned AGP, the petitioner has failed in the affinity test. He further submits that considering the entry in the School record of the

uncle - Mohd. Ayubkhan, the word “Tadvi” is written in different ink. It appears that so far as entries in the School record of the petitioner are concerned, same were the subject matter of consideration in the earlier proceedings of the real uncle of the petitioner and real brother of the petitioner. The Committee has validated the same. In some of the School record of said Mohd. Ayubkhan - uncle of the petitioner, caste is recorded as “Muslim”, the same is a religion and cannot be construed as a contra entry.

4. The validity are already issued to the real brother and the uncle of the petitioner and one paternal cousin of the petitioner. Considering the above, we pass the following order.

- (i) The impugned order is quashed and set aside.
- (ii) The committee shall issue validity certificate to the petitioner of “Tadvi” Scheduled Tribe. The said validity certificate shall be subject to the decision that would be taken in the re-opened proceedings of the validity holders relied upon by the petitioner.
- (iii) Writ petition is accordingly disposed of. No costs.

(R. N. LADDHA)
JUDGE

(S.V. GANGAPURWALA)
JUDGE

mtk