

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

**966 WRIT PETITION NO. 8492 OF 2020  
WITH  
CIVIL APPLICATION STAMP NO. 936 OF 2021**

**PAYAL BHAGCHAND BHOKAN  
VERSUS  
THE STATE OF MAHARASHTRA AND OTHERS**

...  
Advocate for Petitioner: Mr. Anandsingh S. Bayas  
AGP for Respondents/State: Mr. P. K. Lakhotiya  
...

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

**DATE: 08<sup>th</sup> JANUARY, 2021**

**PER COURT:**

1. The tribe claim of the petitioner as Naikda, Scheduled Tribe is invalidated.

2. Mr. Bayas, learned Counsel for the petitioner submits that the petitioner has placed on record old document i.e. Pahanipatrak of 1357 fasli of the great grandfather of the petitioner namely Amruta Kalu Naikda wherein the caste is recorded as Naikda. The learned Counsel submits that the paternal cousin of the petitioner namely Hirasing S/o. Ramsing has been issued with the validity certificate of Naikda, Scheduled Tribe. The

another paternal relative of the petitioner Thansing S/o. Fulsing is issued with the validity certificate of Naikda, Scheduled Tribe. The another paternal relative namely Vikas S/o. Mansing is issued with the validity certificate of Naikda, Scheduled Tribe. The learned Counsel submits that the school record of the Ramsing S/o. Fulsing records the caste as Naikda. So also, in case of Thansing S/o. Fulsing the school record shows caste recorded as Naikda. The school record of the grandfather of the petitioner namely Tekchand records caste as Naikda. The said document is of the year-1954. The learned Counsel submits that the committee relied upon the record of some persons who are not related to the petitioner. The full names of those persons are not stated.

3. Mr. Lakhotiya, the learned A.G.P. submits that in fact the school record of the petitioner's grandfather and his paternal relatives are manipulated. The genealogy shown by the petitioner and that shown by Hirasing does not match.

According to the learned A.G.P., the petitioner has failed in the affinity test. The cousin great grandfather of the petitioner namely Ganpat Tilya has recorded his caste as Chambhar Wanjari in Kotwar Book, same is the position of another cousin grandfather namely Devchand Govardhan and Ganya Tilya. The Committee has considered all aspects and thereafter has rightly rejected the caste claim of the petitioner.

4. We have considered the submissions canvassed by the learned Counsel for respective parties.

5. The petitioner has denied the relationship with Ganpat Tilya, Devchand Govardhan and Ganya Tilya. We do not find any document to establish the relationship of the petitioner with these persons. It is referred to by the committee that the school record of the petitioner's paternal relative namely Ramsing, Tekchand, Bansi, Tahnsing and Mansing are manipulated, so also, the school record of the petitioner and his paternal aunt. The committee came to the conclusion that the

record is manipulated on the ground that the entry of caste is recorded in a different ink.

6. The doubt was created regarding relationship of the petitioner with the validity holders namely Hirasing, Indrajit and Vikas.

7. Mr. Bayas, the learned Counsel submits that the petitioner had submitted the affidavit of Hirasing S/o. Ramsing online but the same has been ignored by the committee and not referred to in the judgment.

8. Mr. Bayas, the learned Counsel for the petitioner has placed today the affidavit of Hirasing S/o. Ramsing Bhokan. Said Hirasing S/o. Ramsing Bhokan is identified by Mr. Bayas, the learned Counsel. In the said affidavit, he has affirmed his relationship with the petitioner.

9. It is further submitted that show cause notices are issued to those validity holders relied by the petitioner.

10. The record issued by the Tahsildar office is also produced by the petitioner before this Court the same appears to be Jamabandi Book issued by the Tahsildar, Bhokardan. We direct the Tahsildar, Bhokardan to make an enquiry regarding the genuineness of the same. It appears that the same is issued under the Right to Information Act.

11. In light of the above, we pass the following order.

12. The impugned judgment is quashed and set aside.

13. The Committee shall issue validity certificate to the petitioner of Naikda, Scheduled Tribe immediately.

14. The said validity certificate shall be subject to the decision that would be taken by the Committee in the proceedings re-opened of the validity holders relied by the petitioner.

15. Writ Petition is accordingly disposed of. No costs.

16. In view of disposal of the writ petition, the civil application is also disposed of.

[SHRIKANT D. KULKARNI, J.]

[S. V. GANGAPURWALA, J.]

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