

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.14215 OF 2018

SHWETA VENKATRAO CHOUDHARI
VERSUS
SCHEDULED TRIBE CERTIFICATE SCRUTINY
COMMITTEE AND OTHERS

...
Advocate for the Petitioner : Shri Deshmukh Mahesh S.
AGP for Respondent 1 : Smt.M.A. Deshpande
Advocate for Respondent 3 : Shri S.S. Dande h/f Ms.A. A.
Deshmukh
...

CORAM : RAVINDRA V. GHUGE
&
S.G. MEHARE, JJ.

DATE :- 06th December, 2021

Per Court :-

1. By this petition, the petitioner has put forth prayer
clauses A, B, C and D as under :-

- “A) *Issue writ of certiorari or order in the like nature thereby, quash and set aside impugned judgment and order passed by Respondent No.1-Scheduled Tribe Certificate, Scrutiny Committee, Aurangabad dated 09.07.2018.*
- B) *Hold and declare that the petitioner belongs to “Rajgond”, Scheduled Tribe and further direct the Respondent No.1- Scrutiny Committee to forthwith issue certificate of validity in favour petitioner in prescribed form within stipulated period.*
- C) *Grant stay to the effect and operation of*

impugned judgment and order passed by Respondent No.1- Scheduled Tribe Certificate, Aurangabad dt.09.07.2018, pending hearing and final disposal the instant petition.

D) By an interim order direct the Respondent No.2 and 3 to forthwith issue original Degree Certificate of Bachelor of Engineer (Computer Science and Engineering) without insisting for certificate of validity, pending hearing and final disposal of instant petition.”

2. The learned advocate for the petitioner submits that the petitioner is likely to secure admission to the MBA course. The college would be allotted to her by 08.12.2021. She has, therefore, to be equipped with the Scheduled Tribe certificate of belonging to “Rajgond” tribe.

3. We have considered the strenuous submissions of the learned counsel appearing for the respective sides. Respondent No.2 (Shivaji University, Kolhapur) has not entered an appearance despite service of court notice.

4. Considering the order that we are passing, we are not required to go into much details. Suffice it to say that the competent scrutiny Committee had issued show cause notices to the petitioner (Shweta Venkatrao Choudhari) along with her cousin sisters, namely, Shubhangi Venkat Choudhari (coincidentally her father's name is Venkat) and Priyanka

Shridhar Choudhari. Shubhangi and Priyanka have been granted tribe validity certificates by the orders of this Court, both dated 30.07.2018 delivered at the Principal Seat in Writ Petition Nos.7503/2018 and 7493/2018, respectively.

5. We have perused the genealogy tree, which dates back to the great-great grandfather of the petitioner. Her father Venkat is the son of Kishan and the grandson of Shivappa. Shivappa had a biological brother Narsappa, who had three sons, namely, Vitthal, Venkat and Ramesh. Venkat Narsappa and Ramesh Narsappa are granted the validity certificates. Shubham Venkat and Shubhangi Venkat have been granted the validity certificates. Shubhangi Venkat has been granted the said certificate under the orders of this Court.

6. The father of Shivappa and Narsappa is Sangappa, who had a real biological brother Bhimrao. Bhimrao's grandson, namely, Uttam Ramrao has been granted the validity certificate. Ramrao has two more sons, namely, Shridhar and Balbhim. The daughter of Shridhar, namely, Priyanka is also granted the validity certificate under the orders of this Court.

7. Bhimrao and Sangappa are the biological sons of Ismalji Choudhari, who is the biological brother of Mahadba

Choudhari and their father is Ambaji Choudhari (great-great grandfather of the petitioner). Mahadba had two sons viz. Hanmanta and Ramji. Hanmanta's grandson Bhagwan Rajappa has one son Ashish, who is also granted the validity certificate. Hanmanta's biological brother Ramji had two grandsons, namely, Narayan Rajanna and Kashinath Rajanna, who are also granted the validity certificates. Narayan's one son (Balaji) and daughter (Ashwini) are also granted the validity certificates. Rajanna's another son Kashinath is also granted the validity certificate and Kashinath's son Ram and daughter Swati also have validity certificates.

8. In the light of the above, it is obvious that the law laid down by this Court in *Apoorva d/o Vinay Nichale vs. Divisional Caste Certificate Scrutiny Committee No.1, Nagpur, 2010 (6) Mh.L.J. 401 : AIR 2010 (6) BOM R 21*, would squarely apply to this case.

9. In Shubhangi's case in Writ Petition No.7503/2018 decided on 30.07.2018, the learned Division Bench of this Court has noted in paragraph 7 as under :-

“7. In the circumstances, in the light of the judgment in the case of law laid down in the cases of *Apoorva Nichale, Anand vs.*

Committee and Raju Ramsing Vasave (supra), the petitioner is entitled to be granted caste validity certificate forthwith. However, the issuance of the certificate shall be subject to the outcome of the show cause notice which has been issued against the father of the petitioner by the Committee as the caste validity certificate issued to them is found to be based on interpolation/ adverse entries.”

The above direction has been issued since the father of Shubhangi, namely, Venkat (son of Narsappa) has been issued with a show cause notice as his caste certificate was doubted as the record produced by Venkat is based on interpolations and adverse entries, which have been noticed subsequently.

10. Needless to state, if the petitioner relies upon the validity certificates of blood relatives from the paternal side and in case of any such validity certificate holder is subject to fresh enquiry, it would be appropriate for this Court to follow the same path as has been followed by this Court in the case of Shubhangi vide paragraph 7 reproduced above, as the present petitioner also relies upon the validity certificates issued in favour of Venkat and his son Shubham and daughter Shubhangi.

11. In view of the above and considering the law in *Apoorva Nichale (supra)*, this Writ Petition is partly allowed as

under :-

(a) The impugned order of respondent No.1/ Committee dated 09.07.2018 is quashed and set aside.

(b) The petitioner shall be granted the validity certificate as prayed for in prayer clause “B”. Subject to the directions set out in this order, respondent No.1/ Committee shall issue the “Rajgond”, Scheduled Tribe validity certificate to the petitioner on or before 07.12.2021 (tomorrow).

(c) Needless to state, the said validity certificate shall be subject to the outcome of the proceedings in case of Venkat, which would also bind Shubhangi. No equities shall be created in favour of the petitioner.

(d) In the event of Venkat suffering an adverse order, it would be open to the competent Committee to reopen the case of the petitioner for reinvestigation and in the event of adverse conclusion being drawn by the Committee, the validity certificate granted by the Committee under the orders of this Court, would be cancelled, subject to a reasonable opportunity of hearing by the competent Committee.

(e) We direct respondent No.2/ University to issue the degree certificate of Bachelor of Engineering to the petitioner, as

expeditiously as possible and preferably on or before 10.01.2022, in the event of there being no other legal impediment.

12. The learned AGP representing respondent No.1/ Committee, whose responsible officer is present in the Court, need not wait for this order to be uploaded on the official website. Since the order has been dictated in open court, the learned counsel would be at liberty to communicate respondent No.1 of this order in writing.

kps

(S.G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)