

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

984 WRIT PETITION NO. 1526 OF 2022
WITH CA/1465/2022 IN WP/1526/2022

TAASEEM SARTAJ MOHAMMAD KHAN
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Petitioner : Mr. S.R.Barlinge
AGP for Respondents: Mr. A.S. Shinde
...

CORAM : S. V. GANGAPURWALA AND
S. G. DIGE, JJ.

DATE : 9th FEBRUARY, 2022

PER COURT :-

1. In normal course, we would not entertain the present petition.
2. The proceedings before the Committee are pending. Today, according the learned counsel for petitioner, is the last date to submit the validity certificate. This Court under order dated 14th October, 2021 in Writ Petition No. 11566 of 2021 filed by the present petitioner, directed the Committee to decide the proceedings expeditiously, considering the judgment delivered in the case of real sister of the petitioner in Writ Petition No. 13356 of 2017 dated 03-05-2018. However, the Committee has not yet decided the said proceedings.
3. The learned AGP for respondents submits that the document relied on by the petitioner is of the year 1349 Fasli (1939) and the same was sent for vigilance.
4. The father of the petitioner is issued with validity certificate of 'Tadvi' scheduled Tribe. The caste claim of real sister of the petitioner

Sabahat Sartaj Khan was invalidated. She filed Writ Petition No. 13356 of 2017. The Division Bench of this Court, under order dated 3rd May, 2018 allowed the Writ Petition by setting aside the judgment of the Committee and directed the Committee to issue validity certificate of 'Tadvi' scheduled tribe. In the said judgment, this Court observed that the old document in favour of great grandfather of petitioner is of 1349 Fasli (1339). It was observed that the said document was also subject matter for consideration in the proceeding while granting validity to the father of petitioner and father of the petitioner was also issued with validity certificate. It was also observed that School record of the petitioner therein consistently records caste as 'Tadvi'. The same is the case in present petition. There is not a single contra entry. This Court in paragraph Nos. 6 to 10 of aforesaid judgment in Writ Petition No. 13356 of 2017 filed by real sister of petitioner made following observations :

"6. It is a matter of record that, the father of the petitioner has been issued with the validity certificate of Tadavi(S.T). The same is issued after conducting vigilance. The old document in favour of great grandfather of the petitioner of 1349 Fasli (1939) was also subject matter of consideration in the proceedings granting validity to the father of the petitioner. The same document is placed on record in the present matter also. The Committee has not disputed the relationship as claimed by the petitioner with Akbarkhan Tadavi. The Committee has also not raised any doubt in respect of said document. It was for the Committee to verify the said document.

7. The school record of the petitioner consistently records caste as Tadavi. The school record of the father of the petitioner records caste as Muslim. Muslim is a religion and cannot be construed as a contra evidence. There is not a single contra evidence on record.

8. *The Division Bench of this Court at its Principal Seat at Bombay in Writ Petition No. 10367 of 2017 under judgment dated 27th September, 2017 has held that, the Director of Social Welfare, Maharashtra State, Pune has issued letter dated 04th March, 1978. It is stated by the Director of Social Welfare that the Government of Maharashtra by letter dated 18th February, 1977 addressed to the Collector, Jalgaon and other Collectors of different districts in the State of Maharashtra communicated that, Tadavi caste is included in the Scheduled Tribe. It has also been stated that, Tadavi caste may be of any religion are eligible to get certificate of the scheduled tribe. It was further held in the said judgment that, if a candidate is not aware of traditional social customs of Tadavi Bhil, it cannot be merely a ground for holding that he does not belong to Tadavi tribe at all. The Division Bench further observed that, if the petitioner is unable to tell what the traditional social customs of Tadavi tribe are, it cannot be said that, he ceases to belong to Tadavi tribe.*

9. *In the present matter, there are no contra evidences. Father of petitioner is issued with validity certificate. The paternal aunt of the petitioner is also issued with the validity certificate of Tadavi (S.T.) The old document of 1939 of the great grandfather of the petitioner records name of Akbarkhan Tadavi. The same document was also part of the proceedings in which father of the petitioner was given validity certificate of Tadavi (S.T.)*

10. *In view of all these facts, the judgment of the committee is quashed and set aside. The Committee shall issue the validity certificate to the petitioner of Tadavi (Scheduled Tribe). The writ petition is accordingly allowed. No costs."*

5. In the present case also from the record no contra entry appears. Mentioning 'Muslim' cannot be said to be contra entry, the same is

religion.

6. In view of the judgment delivered in the case of real sister of the petitioner, in writ petition No. 13356 of 2017 dated 3rd May, 2018, wherein all the documents are considered and the validity is directed to be issued to real sister of the petitioner, we pass the following order.

ORDER

- (i) The Committee shall issue the validity certificate to the petitioner of 'Tadvi', Scheduled Tribe.
- (ii) In case the Committee finds some contra evidence on record and the Judgment dated 3rd May, 2018 in writ petition No. 13356 of 2017 is reviewed, the present judgment shall be subject to the same.
- (iii) On the basis of validity certificate, benefit as may be available to the petitioner be accorded.

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

8. In view of disposal of writ petition, the Civil Application stands disposed of.

**(S.G. DIGE)
JUDGE**

**(S.V. GANGAPURWALA)
JUDGE**