

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

903 WRIT PETITION NO.2686 OF 2022

AISHWARYA RAJENDRA NIKAM
VERSUS
SCHEDULED TRIBE CERTIFICATE SCRUTINY COMMITTEE
THROUGH ITS MEMBER SECRETARY AND ANOTHER

...
Advocate for Petitioner : Mr. Phatale Sagar S
AGP for Respondents: Mr. S.K. Tambe

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**CORAM : RAVINDRA V. GHUGE AND
SANJAY A. DESHMUKH, JJ.
DATED : 24th NOVEMBER, 2022.**

PER COURT :-

1. The petitioner's tribe claim has been invalidated. After having completed the three years Polytechnic Computer Science Course, she has been granted direct admission to the 2nd year engineering graduation course. There are 25 validity holders from the paternal side of the petitioner. Out of them, 12 validities have been granted under the orders of the High Court.

2. The learned A.G.P. submits that the committee is reopening certain cases and is also preparing to approach the Hon'ble Supreme Court for challenging the orders of this Court, granting validity certificates in 12 cases.

3. Following is the list of cases and the orders by which this Court has granted validity certificates:-

Sr.No.	Name of petitioner	Writ petition No.	Date of order
1	Kanchan Gangadhar Nikam	3082 of 1995	10.07.1995
2	Priya Annasaheb Nikam	8184 of 2019	15.07.2019
3	Tanushri Dilip Nikam	13417 of 2018	08.11.2019
4	Yeshraj Dilip Nikam	5293 of 2021	25.03.2021
5	Rahul Prakash Nikam	1131 of 2021	20.01.2021
6	Nana Gorakhnath Nikam	2153 of 2013	12.03.2021
7	Gangadhar Ambadas Nikam	9741 of 2021	14.10.2021
8	Prakash Eknath Nikam	6037 of 2021	28.03.2022
9	Shubham Ashok Nikam	10202 of 2018	20.07.2021
10	Nakul Annasaheb Nikam	11091 of 2021	27.10.2021

4. The petitioner has tendered an affidavit undertaking dated 22.11.2022, declaring that if any of the validity certificates of the relatives, relied upon by the petitioner, are subsequently cancelled after reopening of their cases, the petitioner's case would also suffer the same consequences. The said affidavit undertaking is taken on record and marked as "X-1" for identification.

5. The learned advocate for the petitioner has placed before us the family tree at page 134 of the petition paper book. He has also drawn our attention to the order passed by this Court, granting validity certificates to several paternal relatives. Out of family tree, only a few family members like the petitioner herein and four cousin brothers are yet to receive their validity certificates. 25 family members have been granted such certificates. He relies upon the judgment delivered by the Hon'ble Supreme Court in the ***Raju Ramsing Vasave vs. Mahesh Deorao Bhivapurkar and Ors.*** (2008) 9 SCC 54 and of this Court in ***Apoorva Vinay Nichale vs. Divisional Caste Certificate Scrutiny Committee No.1 and Ors.*** 2010(6) Mh.L.J. 401, wherein this Court has ruled that when several family members from the paternal side have been granted validity certificates, it would be improper and would create an anomaly, if any blood relatives are refused such a certificate. It is contended that, conducting the Vigilance enquiry in each case would be only a repetitive action. He points out the reasons assigned by this Court while issuing orders, granting validity certificates to 12 family members, out of 25, who have received validity certificates.

6. The learned A.G.P. has vehemently contended that the committee has noticed several contra evidence. By a reasoned order, the claim of the petitioner was rejected. Several cases have

been reopened for scrutinizing as to whether the validity certificates were appropriately issued. The Special Leave Petitions are also contemplated to be filed before the Hon'ble Supreme Court for challenging the orders passed by this Court, granting validity certificates.

7. The learned advocate for the petitioner submits that, on one hand, merely because the committee desires to reopen the cases, would not mean that all validity certificate holders have acted fraudulently or have played a fraud. The petitioner is in dire need of a validity certificate in the light of the fact that she has completed her three years Polytechnic course and has been selected for being admitted directly to the 2nd year engineering graduation course.

8. The learned A.G.P. submits that the matter pertaining to the Thakur Scheduled Tribe is now referred to a Larger Bench after noting the view taken in ***Shilpa Vishnu Thakur vs. State of Maharashtra and others***. He, therefore, submits that if this Court desires to grant validity to the petitioner, as like the 12 validity certificates granted by this Court to her blood relatives, the decision of this Court be subject to the result in ***Shilpa Vishnu Thakur (supra)***.

9. In view of the above and in the light of the fact that 22 validity certificates have been granted to the paternal blood relatives of the petitioner, out of which 12 have been granted by the High Court, that we do not agree with the reasons assigned by the committee in its impugned judgment for distinguishing the case of the petitioner from those of her 25 blood relatives, who have been granted the validity certificates.

10. This petition is therefore, partly allowed. The impugned order dated 29.01.2022 is quashed and set aside with the following directions:-

- a) The competent committee shall issue the validity certificate to the petitioner by 5.00 p.m. on 25.11.2022 since the petitioner has to submit the said certificate by 28.11.2022 (Monday) which is preceded by two holidays.
- b) The petitioner shall be bound to her affidavit "X-1" and the decision of the Court in this litigation would be binding upon her.
- c) If any of the validity certificates, issued to the paternal blood relatives, are set aside, the said decision would be binding

upon the petitioner and she would suffer the same consequences as would be suffered by those blood relatives, whose claims may be invalidated.

- d) Needless to state, the decision of the Hon'ble Supreme Court in ***Shilpa (supra)*** would apply to the case of the petitioner.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE , J.)

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