

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.10348 OF 2022

GAURAV VIJAYSING RABADE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND
ANOTHER

Mr.Anandsingh Bayas, Advocate for the petitioner.
Mr.P.S.Patil, AGP for State.

(CORAM : RAVINDRA V. GHUGE AND
ARUN R. PEDNEKER, JJ.)

DATE : OCTOBER 06, 2022

PER COURT :

1. The petitioner is before the Court with prayer clause 'A' and 'B' as under :-

"A. The Hon'ble Court may please to direct to issue caste validity certificate of Naikda Scheduled Tribe to the petitioner in view of the validity certificate granted to father, uncle and sister of the petitioner by issuing writ of mandamus or any other writ like nature.

IN ALTERNATIVE

The Scrutiny Committee be directed to decide the tribe claim of the petitioner by considering the validity certificate granted by the Scrutiny Committee to father, uncle and real sister of the petitioner within stipulated period and before on the first round of admission to the

Engineering and Medical Course.

B. Pending hearing and final disposal of the writ petition, the respondent No.2 be directed to forthwith to decide the claim of the petitioner."

2. The petitioner claims to have tendered his proposal for seeking validity of belonging to Naikda Scheduled Tribe, on 20.09.2021. On 11.01.2011, the Tribe claim of his father has been validated by the Scrutiny Committee. On 13/04/2011, his uncle's claim has been validated. By an order dated 26.08.2019, passed by this Court at the Principal Seat in WP No.9363/2019 filed by the biological sister of the petitioner namely Nisha Vijaysing, this Court recorded in paragraph Nos. 7 and 8 as under :-

"7. In the circumstances, in the light of the law laid down by the judgments in 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 notices which have been issued against the father Vijaysing Bhimrao Rabde and uncle Vinod Bhimrao Rabde by the Committee as the caste validity certificates issued are found to be based on interpolation / adverse entries.

8. In view of the above, the Committee is directed to issue Tribe validity certificate to the petitioner forthwith. As the Committee has already

initiated proceedings for cancellation of validity issued to the blood relations of the petitioner, in response to the Courts query, it is assured by the Committee that the Committee will conclude those proceedings within a period of six months from the date of receipt of copy of this order. If the proceedings for cancellation of caste validity are answered against such certificate holders, it shall be open for the respondent Committee to issue show cause notice to the petitioner as to why the validity certificate granted to petitioner should not be cancelled and it will be open for the Committee to take those proceedings to its logical end. Needless to say that the certificate issued to the petitioner is subject to the outcome of the proceedings for cancellation of validity issued in favour of her blood relations."

3. In view of the above, we have considered the request of the petitioner that he should also be granted an order as like his sister in view of paragraph Nos. 7 and 8. However, the petitioner is unable to persuade us in adopting the said approach for the following reasons.

[a] The petitioner's proposal was earlier forwarded alongwith a certificate of belonging to the Scheduled Tribe.

[b] It was on 16.03.2022 that the petitioner secured the Scheduled Tribe Certificate in Form 'C' from the S.D.O. Sillod.

[c] On 03.11.2021, the father of the petitioner addressed the Committee with a letter dated 03.11.2021 in Marathi which, on

translation in English, would read as, "*I respectfully request that the proposal of my son Gaurav Vijaysing Rabade (the present petitioner) seeking validity of his claim belonging to the Naikda Scheduled Tribe Category is pending with your Office since 20.09.2021 submitted through the Higher Secondary School, Sunderkhed , Tal and Dist. Buldhana bearing File No.4/515/Edu/072021/185699. Whenever my son may require a validity certificate, I will be presenting a new proposal. Until then, as my son does not require a validity certificate now, his pending proposal may be closed and the original tribe certificate be returned.*"

[d] Alongwith the above request, the father of the petitioner has tendered a colour photostat copy of his Unique Identification Card (Aadhar Card).

[e] It is in these circumstances, that the proposal is practically treated as closed and the committee is now not working on it.

4. We are unable to understand as to why the petitioner's father has adopted the above stand. We are informed by the learned AGP that the files pertaining to the validity holders, who figure in the family tree presented by the petitioner, have been re-opened. He also points out

from the original file that several relatives of the petitioner, as seen from page No.5 of the original record and proceedings, that most of them have their caste entry as Banjara, Banjari and in one case, it is Vanjari. In this backdrop, the bonafides of the petitioner are questionable since the petitioner prays that this Court, who passed a similar order as was passed in his sister Nisha's case (*supra*), so that he could walk away with a validity certificate under the orders of the High Court.

5. It is in the above glaring facts of this case that we are unable to issue a direction, either in the nature of the order in the case of Nisha Rabade (*supra*), nor direct the Scrutiny Committee to decide the claim of the petitioner on or before 10.10.2022, since he needs a validity certificate on 11.10.2022. Today is 06.10.2022. One working day is on 07.10.2022 with two holidays and with another working day on 10.10.2022. The petitioner desires that the Committee would grant him validity. In the backdrop of his father having instructed the Committee in the above reproduced letter, that the file of his son be closed and whenever his son needs a validity certificate, a new proposal would be tendered, compels us to decline the request of the petitioner

either to pass an order granting him a conditional validity or direct the Committee to decide his claim by reopening the file, which his father had got closed, and that too within 2 working days. So also this petition has been filed on 12.09.2022.

6. As such, this petition is disposed off.

7. In the light of the contents of paragraph No.8 in the order dated 26.08.2019 passed in the case of Nisha (supra), the Committee shall proceed with the cases of the validity certificate holders, which have been reopened and conclude the same on or before 31.01.2023. So also the claim of the petitioner, if the Committee finds it possible, be considered and be decided as expeditiously as possible. The petitioner shall render co-operation to the Committee and shall refrain from seeking unnecessary adjournments.

8. Needless to state, in the event, the claim of the petitioner is adjudicated after the judgment in the reopened files, the result of those cases would apply with all consequences to the case of the petitioner.

9. Needless to state, all the contentions of the petitioner in support of his claim and all documents relied upon by the petitioner, are kept open to be considered by the Committee on their merits.

(ARUN R. PEDNEKER, J.)

(RAVINDRA V. GHUGE, J.)