

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

16 WRIT PETITION NO.11859 OF 2022

PATHAN UZAIR KHAN YUNUS KHAN

VERSUS

THE STATE OF MAHARASHTRA THROUGH SECRETARY AND ANOTHER

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Advocate for Petitioner : Mr. Sahil Choudhari, h/f Mr. Devdatt P. Palodkar.

AGP for Respondent/State: Mr. S. G. Sangle

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CORAM : **RAVINDRA V. GHUGE &
SANJAY A. DESHMUKH, JJ.**

DATE : 28th November, 2022.

Per Court:

1. The petitioner, by filing this petition on 25th November, 2022, which is being heard today for the first time after the intervening holidays on 26th and 27th November, 2022, prays that the committee should decide his claim belonging to "Tadvi" Scheduled Tribe, within one day, tomorrow and grant a validity certificate.

2. This petition is filed invoking the Writ of Mandamus expecting us to issue a direction to the competent authority to exercise jurisdiction vested in it by law. It calls for no debate that the Writ of Mandamus can be issued when all available remedies have been exhausted and yet the grievance of the petitioner is unredressed. If a statutory authority delays or declines to exercise jurisdiction vested in it

by law, thereby causing injustice, this Court can issue a Writ of Mandamus directing the authority to exercise such jurisdiction.

3. The facts of this case are glaring, set out as under:-

- a) The petitioner has passed 12th standard examination in June 2022 ;
- b) The petitioner has appeared for the State CET examination on 22nd August, 2022 ;
- c) The result was declared on 15th September, 2022 ;
- d) The petitioner has scored 45% marks in the State CET ;
- e) The petitioner tendered a proposal for validation on 28th October, 2022 and by filing this petition on 25th November, 2022, he expects the committee to pass an order within 24 hours.

4. The learned AGP submits that any order being passed in the nature in which the petitioner desires, would actually cause tremendous pressure on the committee. A claim cannot be decided within 30 days. There is one validity in favour of the cousin uncle of the petitioner.

5. We have perused the family tree, which can hardly be

called as a family tree. The name of the grandfather is mentioned as Lutfullah Khan Abdul Majidullah Khan. He is said to have only two sons, Yusuf Khan Lutfullah Khan and Nazir Khan Lutfullah Khan. It is further stated that Yusuf Khan has only one son Pathan Yunus and Nazir Khan has also one son Hakim Khan.

6. We find that the full family tree has not been placed before us.

7. The learned AGP submits that considering that there are more than eight thousand orders passed by the High Court mandating the various committees to decide the validity claims expeditiously, the claim of the present petitioner, which is only 30 days old and not even scrutinized, can be decided in another ten months time, keeping in view that there are orders of this Court, which have to be complied with as per the time line directed by this Court.

8. In view of the above, we find that this is one case wherein the Writ of Mandamus cannot be issued. This petition is, therefore, disposed off.

9. Nevertheless, we would expect the committee to decide the claim of the petitioner as expeditiously as possible, on or before

31st May, 2023. The learned AGP once again prays to us that some more time may be granted. Taking into account the interest of the student, though we know that this order may put some pressure on the committee, yet we expect the committee to take a decision accordingly.

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[SANJAY A. DESHMUKH, J.]

[RAVINDRA V. GHUGE, J.]