

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 14349 OF 2022**

Aishwarya Mahendrapal Thakur ...Petitioner
Versus
State of Maharashtra through its Secretary Tribal ...Respondents
Development & Anr

Mr Ramchandra K Mendadkar, *for the Petitioner.*
Mr SB Kalel, AGP, *for the Respondent-State.*

**CORAM G.S. Patel &
Sharmila U. Deshmukh, JJ.**
DATED: 21st November 2022

SHEPHALI
SANJAY
MORMARE

Digitally signed by
SHEPHALI SANJAY
MORMARE
Date: 2022.11.22
10:52:15 +0530

PC:-

1. Heard.
2. We allowed production today at 2.30 pm today as we were told that this is a matter of admission at Law College and that, at the last minute and unexpectedly, the Petitioner has been asked to produce a Caste Validity Certificate virtually overnight, by 25th November 2022, i.e., by this Friday. On hearing the matter, we find this assertion to be inaccurate.
3. The Petitioner claims that she and her family belong to the Thakur Scheduled Tribe. The Petitioner has secured admission

after the Common Entrance Test to the law course at Siddharth College of Law in Mumbai. Her admission is against a vacancy in the reserved category. One of the conditions for admission is that the Petitioner must produce a Caste Validity Certificate from the 2nd Respondent, the Scheduled Tribe Certificate Scrutiny Committee, Konkan Division, Thane. Mr Mendadkar for the Petitioner submits that the Committee ought to be directed to decide the Petitioner's application and issue the necessary certificate before 25th November 2022.

4. We are not inclined to make any such order on this Writ Petition. To begin with, the Petitioner applied for a Caste Certificate only on 17th October 2022 according to the learned Advocate for the Respondents. Mr Mendadkar says the application is dated 8th October 2022. That makes no difference. The Petitioner knew that she would be applying in the reserved category, and it cannot have come as any surprise to her that a Caste Validity Certificate would be required as a condition attached to admission against a vacancy in the reserved quota. She herself did the Entrance Test in June 2022 and can reasonably be supposed to have known of this requirement even from then, if not earlier. Indeed, any admission anywhere in Maharashtra against a reserved quota seat would have such a requirement.

5. What we are in effect being asked to do is to condone the Petitioner's unexplained delay in approaching the Committee and to put the Committee, overburdened though it already is, under intolerable pressure to decide the Petitioner's application within 96

hours. The Petitioner imagines that this is routine because her father had received a Caste Certificate — or so it is claimed. This is apparent from prayer clause (a). The prayer is wrongly worded but suggests that the Petitioner's father's blood relatives ought to be granted Caste Validity Certificate "forthwith". Prayer (b) is in the alternative and seeks a direction to the 2nd Respondent Committee to decide the tribe claim of the Petitioner applying the decision of this Court in *Apoorva Nichale v Divisional Caste Certificate Scrutiny Committee & Ors.*¹ The submission and the frame of the prayer overlook that there is no judgment that says that applications for Caste Certificates are to be granted for the asking without investigation and without a thorough inquiry. A vigilance report is required (sometimes more than one), as are home visits, questions to be administered and so on. We do not understand how the Petitioner expects that this entire exercise can not only be fast-tracked but actually dispensed with in her case; and that is the only way in which a certificate can be issued within four days' time, i.e., by exempting the Petitioner from the entire scrutiny process and protocol.

6. *Apoorva Nichale* has no application. In that case, one Caste Scrutiny Committee had granted a certificate to a blood relative. A second committee doubted the correctness of this certificate but without any case established on fraud etc. All that the Division Bench held was that the second or later committee could not merely take a different view in this manner. The decision does not support the suggestion made to us, viz., that a subsequent application should

1 2010 SCC OnLine Bom 1053 : 2010 (6) Mh J 401.

be granted for the asking solely on the basis of a kinsperson's previous certificate without any scrutiny at all. What is being suggested to us is that, as a matter of law, the Petitioner's application only needs to be rubber-stamped by the Scrutiny Committee. *Apoorva Nichale* does not support such an extreme proposition.

7. It is open to the Petitioner to make an application to her Law College that she be given provisional admission subject to her undertaking to provide and furnish a Caste Validity Certificate within a reasonable time. It will be for the college to decide what that time should be. The Petitioner must equally undertake that if she does not produce the necessary validity certificate within the time afforded to her (if any), then her admission will be cancelled or forfeited. We are not to be misunderstood by this order to having directed the college to accept such a proposal from the Petitioner. It is for the college to decide whether to accept the Petitioner's proposal and submission. It is not bound to do so.

8. As regards the Scrutiny Committee, we can only request it to process the application of the Petitioner at its earliest convenience and to give it all possible priority. That application is to be decided on merits and in accordance with law.

9. The Petition is disposed of in these terms. There will be no order as to costs.

(Sharmila U. Deshmukh, J)

(G. S. Patel, J)