

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

945 WRIT PETITION NO.1211 OF 2023

AKASH BIBHISHAN RIDDE
VERSUS
MAHARASHTRA ANIMAL AND FISHERY SCIENCES UNIVERSITY,
THROUGH ITS REGISTRAR AND OTHERS

...
Advocate for Petitioner : Mr. Sagar S. Phatale.
Advocate for Respondent Nos.1 & 2 : Mr. K. P. Rodge.
AGP for Respondent No.3 : Mr. S. G. Sangle.
...

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

DATE : 01st February, 2023.

Per Court:

1. The petitioner has put forth prayer clauses 'A' and 'B' as under:-

“(A) Issue Writ of Mandamus or any other appropriate Writ in the like nature thereby direct the Respondent No.3-Scrutiny Committee Aurangabad to expeditiously decide tribe claim of petitioner within stipulated period.

(B) Issue Writ of Mandamus or other appropriate Writ or order thereby direct the Respondent No.1-University and Respondent No.2-College to forthwith issue Original Marksheet's of all years and Provisional Degree certificate of B.V.Sc. and A.H. course of petitioner and other original documents.”

2. The petitioner's claim of belonging to “Koli Mahadev”

Scheduled Tribe category was pending validation since July, 2015. Since an incorrectly typed certificate was issued by the competent committee, the validation committee rejected the said certificate and closed the file. The petitioner approached this Court in Writ Petition No.9911 of 2017. By the order dated 2nd August, 2017 passed in Writ Petition No.9911 of 2017, this Court has issued the following directions:-

- “(a) The impugned order passed by the Scrutiny Committee invalidating the tribe/caste claim of the Petitioner is set aside.
- (b) We direct the competent Scrutiny Committee to scrutinize and verify the claim of the Petitioner as belonging to “KOLI MAHADEV” Scheduled Tribe (Entry 29) on merits and in accordance with law.
- (c) The Scrutiny Committee should overlook the mistake and error in the spelling of the tribe/ caste in the certificate issued to the Petitioner.
- (d) The Scrutiny Committee shall complete this assignment as expeditiously as possible.”

3. The learned AGP representing the committee frankly submits that the committee probably lost sight of the directions of this Court that the proceedings should be taken to its logical end notwithstanding whether the petitioner has tendered the corrected “Koli

Mahadev” Scheduled Tribe certificate. He, however, adds that the petitioner received the corrected certificate on 28th August, 2017 and that was tendered to the committee on 6th January, 2023. He, therefore, submits that it is obvious that the petitioner held back the corrected tribe certificate that he had received, for self serving purpose, since he was taking education in the Bachelor of Veterinary Science course and he waited till he completed the B.V.Sc. and A.H. course.

4. The facts as recorded above, are undisputed and peculiar. We do not see any plausible reason as to why the petitioner retained the corrected typed certificate with himself, without tendering it to the committee. At the same time, the committee apparently kept waiting for the petitioner to submit the tribe certificate, though this Court had directed it to proceed by overlooking the mistake.

5. The petitioner prays for the original mark-sheets, leaving certificate and degree certificate, so as to seek admission to M.V.Sc. course from the open category. The learned AGP submits that the admission of the petitioner would be rendered doubtful if the claim is not validated. There is only one validity in the family.

6. We have perused the order passed by the Honourable Supreme Court in the matter of ***Maharashtra University of Health***

Sciences Vs. Madhavi Ramrao Thakur and others, in Special Leave to Appeal (C) Nos.866-867 of 2022, dated 31st January, 2022, wherein the Honourable Supreme Court has concluded as under:-

“Applications for exemption from filing c/c of the impugned judgment and official translation are allowed.

The impugned orders are only interlocutory order(s) and we would normally loath to interfere with the same but it amounts to giving relief to the respondent whose admission itself is doubtful as she has not been found to be entitled to validity certificate.

Issue notice.

In the meantime, there shall be stay of operation of the impugned order(s).”

7. In view of the above, this petition is disposed off with the following directions:-

- a) Respondent No.3 committee would deliver it's final order in the pending claim proceedings of the petitioner, by following the due procedure laid down in law, on or before 15th May, 2023.
- b) Respondent No.1 University and Respondent No.2 College shall release the original marks-memo, leaving certificate and internship completion certificate. Considering the order passed by the Honourable

Supreme Court reproduced above, the decree certificate shall not be released

- c) In the event, the claim of the petitioner is invalidated, the petitioner would pay the entire fees of the B.V.Sc. and A.H. course considering that he has received the scholarship benefits from the Government by waiver of the fees, due to his claim of belonging to the reserved category.

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[SANJAY A. DESHMUKH, J.]

[RAVINDRA V. GHUGE, J.]