

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 2341 OF 2005
WITH CA/11983/2023 WITH CA/2469/2013
WITH CA/15345/2011 WITH CA/15161/2013

Yogesh s/o Harishchandra Rajput,
Age 20 years, Occ. Student,
R/o. House No. 299, 13th Housing
Scheme Jijamata Colony, near
Jaibhavani Nagar, Aurangabad

... **Petitioner**

Versus

- 1) The State of Maharashtra,
Through the Secretary Social Welfare
Department, Mantralaya Mumbai.
- 2) The Scheduled Castes, Vimukta Jaties
and Nomadic Tribes, OBC Special
Category Divisional Caste Certificates
Verification Committee, Aurangabad
Division, Aurangabad.
- 3) The Collector,
Aurangabad.
- 4) The Sub-Divisional Officer,
Aurangabad.
- 5) The Dean Government Medical College,
Akola, Dist. Akola.
- 6) Deputy Registrar,
Maharashtra University of Health Science
Vani Raod, Nasik - 422 004
- 7) The Director Medical Education and
Research St. J.J. Hospital near
C.S.T. Mumbai.

... **Respondents**

...
Advocate for the Petitioner : Mr. Rajput Deepak K.
AGP for Respondents/State : Mr. S.G. Sangale
...

**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 07 OCTOBER 2023

PER COURT (PER : SHAILESH P. BRAHME, J.) :

Heard learned counsel for the respective parties for final disposal.

2. The petitioner is challenging judgment and order dated 15.02.2005, passed by the respondent no. 2 – Scrutiny Committee, invalidating the case certificate of the petitioner and confiscating the same. He claims to be belonging to Rajput Bhamta – Vimukta Jati.

3. When this petition was filed, the petitioner was a student of under graduation. He was admitted in the respondent no. 3 – College, when he suffered order of invalidation. His admission was protected by the interim orders. The petition was admitted. The degree certificate of MBBS and internship certificate were directed to be issued vide order dated 23.06.2011, passed in Civil Application No. 3620 of 2011. He completed his MBBS and he was appointed as a Medical Officer on 18.05.2015. Recently, he is qualified for NEET PG and aspires to secure admission for post graduation. Considering the original status of the petitioner, we have treated present petition in the students category.

4. The petitioner seeks reliance upon validity certificates issued to his real brothers Vikramsing and Karansing. He has relied upon the school record of his parental side relatives.

5. Learned counsel for the petitioner submits that there is no contrary record against him. Though the old record is not available, the documents placed on record indicate caste of the petitioner 'Rajput Bhamta' Vimukta Jati. During the course of the arguments, the learned counsel has placed reliance upon validity certificates issued to Radhika Shivsing Rajput and Jaylal Hiralal Rajput. According to him, both these validity certificates were relied upon during scrutiny of the caste certificates of Vikramsing and Karansing.

6. Learned AGP supports impugned judgment and order. According to him, the documentary evidence produced on record is of recent origin. The material produced before the Committee has no probative value and rightly discarded by the Scrutiny Committee. According to him, the Scrutiny Committee is justified in discarding validity certificates of brothers of the petitioner. The validity certificate of Harising Chayansing is not reliable because he is not parental side relative.

7. Learned AGP would submit that the service record of second cousin uncle of the petitioner Dr. Kapoorchand Nandram Rajput cannot be relied upon, in the absence of validity certificate. It is submitted that a plausible view has been taken by the Committee which needs to be confirmed.

8. Learned AGP has produced on record original papers of the petitioner as well as that of Vikramsing and Karansing. We have

gone through the genealogy which is shown to be at page no. 41. The original record shows that Vikramsing was issued with validity certificate on 19.05.2008 and Karansing was issued with validity certificate on 21.06.2010. They are the real brothers of the petitioner. Their validity certificates and affidavits are on record. After conducting vigilance enquiry, validity certificates were issued. We find that their validity certificates are issued after following due procedure of law. They should enure to the benefit of the petitioner.

9. It is transpired during our inspection of files of Vikramsing and Karansing that Jaylal Hiralal was issued with validity certificate on 30.10.2007. Radhika Shivsing Rajput was issued with validity certificate on 03.10.2000. Their validity certificates and affidavits were relied upon while issuing validity certificate to Vikramsing and Karansing. We have ascertained the relationship of the Radhika and Jaylal with the petitioner. Though the genealogy produced on record by the petitioner at page no. 41 does not disclose the names of Jaylal and Radhika, the files of Vikramsing and Karansing clarifies the position. We find Radhika and Jaylal are the relatives of the petitioner and their validity certificates can be relied upon. We find that the petitioner is successful in making out a case for validity certificate.

10. The Scrutiny Committee has recorded that there was no old record produced to support the claim of the petitioner. The old record has probative value. However, a claim cannot be rejected

just because the record which is sought to be produced is of recent origin. In the present matter, the school record of the relatives of the petitioner consistently indicate the caste as 'Rajput Bhamta'. There are four validity certificates to corroborate the caste claim. We, therefore, find that the committee has committed perversity in rejecting the caste claim.

11. The validity certificates which are relied upon by the petitioner are intact. We have confirmed from learned AGP that the Committee has not expressed any intention to reopen the matters of validity holders. However, It is always open for the Committee to re-examine the validity certificates by following due procedure of law. The Committee will be at liberty to conduct re-verification of the caste claim of the petitioner as permissible in law.

12. We find that the petitioner is entitled to validity certificate of 'Rajput Bhamta' Vimukta Jati. The impugned judgment and order is unsustainable. We, therefore, dispose of this Writ Petition by passing following order :

ORDER

1. The writ petition is allowed. The impugned order is quashed and set aside. The respondent - committee shall immediately issue caste validity certificate to the petitioner as belonging to 'Rajput Bhamta' Vimukta Jati.

2. We request the learned AGP to communicate this order to the Committee immediately.

3. Pending Civil Applications are disposed of.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

spc/