

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

WRIT PETITION NO.4612 OF 2023

Albeena Jaweed Tadvi,
Age. 25, Occu. Education
R/o. Inayat Nagar, Juna Pedgaon Road,
Parbhani, Tq. and Dist. Parbhani,
Through Power of Attorney Holder
Jaweed Ahmed Khan S/o Aziz Ahmed Khan
Age. 60 years, Occu. Retired
R/o. As above.

... Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary,
Medical Education and Drugs Department,
Mantralaya, Mumbai.
2. The Scheduled Tribe Caste Certificate
Verification Committee Aurangabad,
Through its Dy. Director (R),
Dist. Aurangabad.
3. The Principal,
Saraswati Dhanwantari Dental College
Parbhani, Pathri Road, Parbhani
Dist: Parbhani.
4. The Registrar,
Maharashtra University of Health
Sciences, Dindori Road, Mhasrul /
Nashik, District-Nashik.
5. The Commissioner & Competent Authority,
Commissionerate of Common Entrance Test Cell,
Government of Maharashtra,
8th Floor, New Excelsior Building,
A. K. Naik Marg, Fort, Mumbai.

... Respondents

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Mr. Mahadevappa Vibhute Sunil, Advocate for Petitioner.

Mr. S. K. Tambe, AGP for Respondent/State.

Mr. S. S. Gangakhedkar, Advocate for Respondent No.4.

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AND

WRIT PETITION NO.4633 OF 2023

Fakeha Kausar D/o Jaleel Ahmed
Khan Age. 25, Occu. Education
R/o. Madina Nagar, Parbhani,
Tq. and Dist. Parbhani
Through Power of Attorney Holder
Jaweed Ahmed Khan S/o Aziz Ahmed Khan
Age. 60 years, Occu. Retired
R/o. As above.

... Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary,
Medical Education and Drugs Department,
Mantralaya, Mumbai.
2. The Scheduled Tribe Caste Certificate
Verification Committee Aurangabad,
Through its Dy. Director (R),
Dist. Aurangabad.
3. The Dean,
Swami Ramanand Tirth
Rural Government Medical College,
Ambajogai, Dist. Beed.
4. The Registrar,
Maharashtra University of Health
Sciences, Dindori Road, Mhasrul /
Nashik, District-Nashik.

5. The Commissioner & Competent Authority,
Commissionerate of Common Entrance Test Cell,
Government of Maharashtra,
8th Floor, New Excelsior Building,
A. K. Naik Marg, Fort, Mumbai. ... Respondents

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Mr. Mahadevappa Vibhute Sunil, Advocate for Petitioner.

Mr. S. K. Tambe, AGP for Respondent/State.

Mr. S. S. Gangakhedkar, Advocate for Respondent No.4.

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

DATE : 25th April, 2023.

ORAL JUDGMENT: (Per Ravindra V. Ghuge, J.)

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2. The first Petitioner is Albeena Jaweed Tadvi. In the second Petition, the Petitioner is Fakeha Kausar, daughter of Jaleel Ahmed Khan. Both these Petitioners are aggrieved by the judgment and order dated 23rd January, 2023, by which their claim of belonging to the “Tadvi” Scheduled Tribe category, has been rejected.

3. We have considered the strenuous submissions of the learned Advocate for the Petitioners and the learned AGP, who has

defended the impugned order. With their assistance, we have gone through the Petition paper book.

4. The family tree, which is undisputed, indicates that the biological brother of Petitioner No.1, namely Amer and her biological sister, namely Farheen, have been granted validity certificates by the committee. Their father is Jaweed Ahmed, who is the biological brother of Jawwad, Sadiya Kausar and Aliya Kausar. The father of this Petitioner has 8 siblings. Jaleel Ahmed is one of them. Petitioner No.2 Fakeha is the daughter of Jaleel Ahmed and, therefore, first biological cousin sister of Farheen and Amer, who are validity holders.

5. The biological aunt of these Petitioners, namely Sadiya Kausar, had suffered invalidation and under the existing laws, she approached the Court of Shri J. P. Dange, IAS, Additional Commissioner, Tribal Development, Nashik in Caste Appeal Case No.26 of 1990. An extensive hearing was conducted and an extensive order has been passed by the said authority. Miss Sadiya was held to be entitled for a "Tadvi" Scheduled Tribe certificate. We have perused the said order and we concur with the same.

6. The learned AGP submits, on instructions, that the case of those candidates, to whom validity certificates have been granted, are likely to be reopened. He further adds that in the times when such

validity certificates were granted, there was no vigilance cell inquiry. All the cases were decided prior to ***Kumari Madhuri Patil and another Vs. Addl. Commr., Tribal Development, Thane and others, (1997) 5 Supreme Court Cases 437***, and before the 2000 Act was introduced.

7. The learned Advocate for the Petitioners contradicts by submitting that Farheen was granted a validity certificate after the 2000 Act was introduced and by conducting a vigilance cell inquiry.

8. In view of the above, it would create an anomaly if these 2 Petitioners are held to be not belonging to the “Tadvi” Scheduled Tribe category when the biological brother and sister of Petitioner No.1, who are first blood relatives of Petitioner No.2, belong to the “Tadvi” community and Petitioner No.1, who is a biological sister, is to be disentitled to the validity certificate.

9. In ***Apoorva d/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee, 2010 (6) Mh.L.J. 401***, this Court has settled the law on this count. Moreover, since a vigilance cell inquiry has been conducted in the case of Farheen, whose validation claim was approved after the introduction of the 2000 Act, which is an outcome of the judgment delivered by the Honourable Supreme Court in ***Kumari Madhuri Patil and another*** (supra), that we are of the view

that these Petitioners need to be granted validity certificates, since closest blood relatives from the paternal side have received the same. In the event of any validity holder's case is reopened by the committee and if the claim is rejected and the validity certificate is withdrawn, the consequences suffered by the said candidate, would also befall upon these Petitioners.

10. In view of the above, **both these Petitions are partly allowed**. The impugned order dated 23rd January, 2023, is quashed and set aside and the committee is directed to issue the "Tadvi" Scheduled Tribe validity certificates to these Petitioners, within 30 days.

11. Needless to state, if any of the validity holders on whom these Petitioners have placed reliance in support of their claim, suffer invalidation after reopening of their cases, these Petitioners would also suffer the same consequences (*Writ Petition No.5611 of 2018 [Shweta Balaji Isankar Vs. State of Maharashtra and ors]*).

12. Rule is made absolute in the above terms.

[SANJAY A. DESHMUKH, J.]

[RAVINDRA V. GHUGE, J.]