

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6523 OF 2023

Asma Parveen D/o Mohd. Sayeed
Age 46 yeas, Occu :- Service,
R/o House No. 1-22-527, Azim Colony,
Juna Bazar, Aurangabad,
Taluka and District – Aurangabad

.. Petitioners

Versus

The State of Maharashtra and others

.. Respondents

...
Advocate for petitioners : Ms. Rashmi Bhende h/f. Mr. P.R. Katneshwarkar
AGP for the respondent – State : Mr. S.G. Sangle
...

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

DATE : 19 JUNE 2023

ORAL ORDER (MANGESH S. PATIL, J.) :

Heard.

2. The petitioner who claims to be belonging to Raj Scheduled Tribe is seeking the tribe certifice for the beneficiary, being her daughter borne from a wedlock with her husband who belong to an upper caste / tribe.

3. By the impugned order, the respondent – competent authority has refused to concede to her request for grant of tribe certificate on the ground that the evidence was deficient *qua* the caste /

tribe of the blood relations from paternal side of the beneficiary i.e. petitioner's father.

4. We have heard both the sides finally.

5. Suffice for the purpose to observe that as far as the status of the children born out of the intercaste marriage where one partner belongs to a tribal community and the other partner belongs to upper caste, the Supreme Court in the matter of ***Rameshbhai Dabhai Naika V. State of Gujarat and others; (2012) 3 SCC 400***, inter alia has considered the parameters to be borne in mind while considering the claims of such child borne out of the intercaste marriage.

6. The impugned order clearly demonstrates that the respondent – competent authority is oblivious of these parameters. Atleast there is no whisper about the parameters to be borne in mind by him while deciding the request for issuance of the tribe certificate. For that matter, even the petitioner seems to be oblivious of the burden cast on her and the manner in which it could be discharged.

7. It would be appropriate in the peculiar facts and circumstances, to relegate the petitioner before the respondent – competent authority giving her liberty to lead evidence pursuant to the observations of the Supreme Court in the matter of ***Rameshbhai*** (supra) particularly the observations in paragraphs no. 54 to 57.

8. The respondent – competent authority to consider and decide the petitioner's claim afresh on its own merits.

9. The petition is allowed partly in the above terms.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/