

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

Writ Petition No. 6641 / 2023

Vaishnavi Vyankat Kalawar,
Age 22 years, Occu. Education,
R/o. Mandva Tq. Kinwat,
Dist. Nanded.

...Petitioner

Versus

1. Sub Divisional Officer,
Kinwat, Dist. Nanded.
2. Scheduled Tribe Certificate,
Scrutiny Committee, Kinwat,
Office at Aurangabad
through its Member Secretary.

...Respondents

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Mr. Phatale Sagar S., Advocate for the Petitioner

Mr. A. S. Shinde, AGP for Respondents/State

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

DATE : 20 JUNE, 2023.

ORDER [PER : SHAILESH P. BRAHME, J.] :

. Heard finally by consent of the parties.

1. The petitioner has preferred this writ petition being aggrieved by the order dated 26.10.2021 rejecting

her application seeking caste/tribe certificate as well as judgment and order dated 10.10.2022 passed by the respondent no.2 confirming the earlier order. The petitioner claimed that she belonged to scheduled tribe 'Mannervarlu'. To secure the benefit of her social status, application seeking caste/tribe certificate was filed on 12.02.2021 before the respondent no.1.

2. Alongwith the application, the petitioner had filed documentary evidence in the form of her school leaving certificate, school leaving certificate of her father, extract of transfer certificate of herself as well as her sister, genealogy, affidavits and the caste certificate of her father.

3. The respondent no.1 rejected her application noticing that the documentary evidence produced on record did exhibit her caste as 'Mannervarlu'. It was also recorded that the documentary evidence of her blood relative and the school record was produced. However, the learned Officer was not satisfied with the evidence

produced by the petitioner. As there was no revenue record, proof of residence and caste validity certificates of the blood relatives, the claim of the petitioner was rejected.

4. It was observed that the petitioner was under obligation to make out a case by producing the satisfactory evidence. The evidence produced on record was found to be insufficient for issuing certificate.

5. The respondent no.2, Appellate Authority confirmed the findings recorded by the respondent no.1. It was recorded that the guidelines were issued for the competent authority to be followed for issuing caste certificate because there was tendency of taking disadvantage of similarity in the surname. No prima facie evidence was produced to the satisfaction by the petitioner. It was further recorded that unscrupulous and dishonest persons take disadvantage of the similarity in the names, especially when in the school record, the mother tongue was recorded to be Telugu. An

apprehension was expressed of the growing tendency of recording false caste in the school record to avail various benefits.

6. The caste certificate of the petitioner's father and uncle were discarded because those were not validated by following due procedure of law. There was no evidence produced to show the residence. Despite according opportunity, the old revenue record was not produced. For the above reasons, it was recorded that no case was made out by the petitioner and the order passed on 26.10.2021 was confirmed by dismissing the appeal.

7. The learned Advocate for the petitioner submitted that both the authorities exceeded the jurisdiction in considering the claim of the petitioner on the basis of evidence produced on record. There was no adverse observation in respect of specific document produced by the petitioner. Despite cogent evidence, the claim of the petitioner was illegally rejected by adopting hyper technical approach.

8. The parameters for scrutinizing caste certificate for issuing validity and parameters for issuing caste certificate under Section 3 are different. Both the authorities below, especially Appellate Authority found to be over skeptical. The observations recorded in paragraph no.4 and 5 of the judgment of the Lower Appellate Authority, reflect hyper technical and cynical approach. The evidence on record was sufficient. Further enquiry was required to be conducted in case of any doubt regarding the documentary evidence.

9. There was arbitrary and capricious exercise of jurisdiction by both the authorities below, especially when there was evidence of caste certificate of father and uncle. In every case, the evidence of pre-independence era or revenue record cannot be expected at the stage of issuance of caste certificate. It is common knowledge that the claimant would not be conscious enough in securing caste certificate.

10. Besides that it is unreasonable to expect a claimant

to produce full proof evidence in the form of caste validity certificate of blood relatives, old revenue record or evidence of greater provocative value, at that stage of the matter.

11. The approach of the authorities below is not befitting the very purpose of granting social status to the petitioner.

12. For the reasons stated above, we pass the following order.

O R D E R

- (i) The writ petition is partly allowed.
- (ii) The impugned order dated 26.10.2021 passed by the Sub Divisional Officer, Nanded/respondent no.1 as well as judgment and order dated 10.10.2022 passed by the Committee/respondent no.2 are quashed and set aside.
- (iii) The respondent no.2 shall issue a tribe certificate to the petitioner in the

prescribed format with correct spelling of the tribe as expeditiously as possible and in any case within a period of two weeks from today.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

NAJEEB/..