

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

WRIT PETITION NO. 7860 OF 2022

Rushikesh S/o Ravindra Ranmale,
Age: 20 years, Occu: Student,
R/o Chhatrapati Nagar, Satara Parisar,
Aurangabad. Tq. & Dist. Aurangabad.

.. **Petitioner**

Versus

1. The State of Maharashtra,
Through its Principal Secretary,
Social Justice and Special Assistance
Department, Mantralaya, Mumbai – 32.
2. The District Caste Certificate Scrutiny
Committee Dhule,
Through its Member Secretary.
3. The Principal,
Government Polytechnic College,
Aurangabad, Dist. Aurangabad.

.. **Respondents**

...
Mr. S.S. Thombre, Advocate for the Petitioner.
Mr. S.G. Karlekar, AGP for the Respondent-State
...

**CORAM : RAVINDRA V. GHUGE &
SANJAY A. DESHMUKH, JJ.**
DATE : 3rd February, 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 hearing in this matter commenced on 29.11.2022 before this Court. On several occasions we granted opportunities to both the sides to gather instructions, prepare themselves and research, considering the peculiarity of this case, which we would be dealing with as we proceed to dictate this judgment.

3. The petitioner is a 20 year old student who claims to be belonging to the “Vanjari (30)” – NT(D) category. He was issued with a certificate no.883 dated 08.06.2018, by the Sub Divisional Officer, Dhule. His family members are semi-literate and none opted for validation of their social status.

4. With the assistance of the learned advocates for the respective sides, we have perused the record available. The learned AGP has vehemently opposed this petition and has strenuously supported the judgment of the committee dated 25.05.2022, by which, the claim of the petitioner has been rejected. A direction to confiscate his tribe certificate has also been issued and his college has been informed of the invalidation with a request to initiate action against him, under Section 10 of the Maharashtra Scheduled Castes, Scheduled Tribes, De-Notified Tribes, (Vimukta Jatis) Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000.

5. By the first order passed by this Court on 28.07.2022, the petitioner was protected against coercive action. However, it was directed that the degree certificate will not be issued even if he completes his education in the Government Polytechnic College.

6. Since none of the family members of the petitioner or close relatives from the paternal side have received any validity certificate for the “Vanjari-30” NT(D) category, the Petitioner relies on the tribe entries of those who appear in the family tree. It would be advantageous to refer to the impugned judgment wherein the record of the close paternal relatives of the petitioner has been dug out by the vigilance cell. We refer to the same, as is analysed by the Committee, here under :-

a) The school record of the petitioner bearing registration no.904 of the Gita Vidya Mandir, Shivaji Nagar, Dhule bearing registration no.884 dated 25.06.2018, which is a school leaving certificate, indicates his social status as Hindu Vanjari.

b) The school record of his father Ravindra, from the Abhay Yuva Kalyan Kendra's Madhyamik & Ucha Madhyamik Vidyalay, register no.266, certificate no.19 dated 28.09.1999, indicates his social status as Hindu Vanjari.

c) The school entry of his grandfather Ramesh from the Municipal Council School No.3, Dhule, register no.281, book no.14, serial no.40 dated 18.12.2015, originally dated 17.06.1960, indicates Hindu Raavjin Vanjari.

d) A similar school entry of the biological brother of the petitioner's grandfather i.e. cousin grandfather, namely, Prakash dating back to 24.06.1963, indicates the social status as Hindu Vanjari.

e) The biological sister of the petitioner's grandfather, namely Jijabai, also has a school entry, mentioning her date of birth as 01.06.1964, indicating the social status as Hindu Magas Vanjari.

7. The petitioner has placed before us a detailed literature which he has downloaded from the internet with the title “वंजारी जातकुळी आणि वंशावळी” wherein there are four internal sub parts in the same Vanjari category like ‘Laadjin’, ‘Raavjin’, ‘Mathuraajin’ and ‘Bhusaarjin’. Only one entry amongst the entire paternal relatives of the petitioner, as discovered by the Vigilence cell, indicates Raavjin Vanjari. Rest all entries are Hindu Vanjari or Maagas Vanjari.

8. We have perused the said literature and we find that the said tribe has different कुळी, वेद and गोत्र. Several कुळी are like Gambhirrao Shirke, Prataprao, Dhampal, Chandrarao More - Maurya, Gurudrao, Pawar rao,

Jagtaprao, Bhalerao Yadav, Prachandrao Jadhav etc. We have also perused the different वेद and the गोत्र and the sub surnames. We are not required to reproduce all those details in this order. Suffice it to say, that the presidential order recorded the entry of Vanjari as NT(D) in 1994, which was previously recorded as OBC. This is the only category which is termed as the NT(D) category. The presidential order or even the details about the “वंजारी जातकुळी आणि वंशावळी” did not indicate that the internal sub parts like Laadjin, Raavjin, Mathuraajin and Bhusaarjin, would amount to either a different tribe or a different caste.

9. In this backdrop, we had called upon the learned AGP to take instructions from the committee and the vigilance cell, as to whether an entry like Vanjari could assume a different social status other than NT(D), the moment the words like laadjin Vanjari or Hindu Raajvin Vanjari or Hindu Mathuraajin Vanjari or Hindu Bhusaarjin Vanjari or Maagas Vanjari, etc. are found in the Vanjari entries. It is submitted on instructions and on the basis of the record that there is no separate entry, as regards the social status of the वंजारी जातकुळी and वंशावळी, for Laadjin or Raavjin or Mathuraajin or Bhusaarjin and they would not indicate a different social status for a particular candidate. It is stated that even if the candidate belongs to any of these sub categories

with a different कुळी or वेद or गोत्र or sub surname, he would still be known as Vanjari and would fall in the NT(D) category.

10. In the above backdrop, we have scrutinised the impugned judgment. There is no dispute that there is no contradictory evidence or contradictory entries. There is also no finding that, if any sub part in the Vanjari community is noticed in the social status entry of the petitioner, he would not be NT(D) or that he would then belong to some other tribe or some other caste. It is also not the conclusion of the committee that the petitioner has acquired his tribe certificate either fraudulently or mischievously. In, **State of Maharashtra and Others V/s. Ravi Prakash Babulal Singh Prahlad and Another; (2007) 1 SCC 80**, it was concluded that if a certificate is granted to a person who is otherwise not entitled to the same, the State shall not be a helpless spectator. It was also concluded that the certificates and the validity certificates granted in favour of the paternal relatives are relevant, though, not binding upon the committee.

11. We find that the committee has discussed various reported judgments in its order. In fact, practically 50% of the impugned order is reproduction of various observations of the Hon'ble Supreme Court and of this Court, from reported judgments. It is only because one entry of the grandfather of the petitioner mentioning Raavjin Vanjari, is noticed, that the

committee has concluded that the petitioner does not belong to the Vanjari Tribe, which conclusion cannot be supported by the committee before us. There is no conclusion that there are any such entries amongst the paternal relatives of the petitioner which would indicate that he belongs to some other caste or tribe or his social status is such that he may fall in any other unreserved or different reserved category and would not be covered by the social status available to the Vanjari NT(D) category.

12. We called upon the learned AGP to consider the impugned order and state as to whether there is any conclusion that any of the paternal relatives of the petitioner have a different entry of their social status which would exclude the petitioner from the Vanjari tribe and place him in any other caste or tribe. On the basis of the record, the learned AGP submits that there is no such conclusion and there is no such material in support.

13. Under Article 342, it is for the Parliament to specify the tribes or tribal communities or parts or groups within the tribes or tribal communities, as being the Scheduled Tribes in relation to that State. Once the tribe has been declared, by a parliamentary enactment, to be a Scheduled Tribe, there is very little scope for the State or even for the Court to inquire into the matter or to include in or exclude from or to substitute or to declare synonym, to be a Scheduled Caste/Tribe. The Courts should only look into the notification issued

by the President so as to see whether, the name finds place in the notification. There may be distinct caste/tribe carrying the same nomenclature. Therefore, it is necessary to find out in each case as to whether, the claimant belongs to a Scheduled Tribe or the Caste carrying the same name. (*Read Pandurang Rangnath Chavan vs. State of Maharashtra and others, 1998 (2) Mh.L.J. 806*).

14. In **Kumari Madhuri Patil and Another V/s. Additional Commissioner, Tribal Development and Others; 1994 6 SCC 241**, it was concluded by the Hon'ble Supreme Court that, if the scrutiny committee noticed that some of the entries in the paternal relatives of the candidate indicate the inclusion of such paternal relative in any other caste or tribe, the claim of the candidate can be rejected. In the instant case, neither the committee has concluded that there is any discrepancy in the entries of the paternal relatives, nor does it conclude that any particular entry of a paternal relative would place the petitioner in any other caste or tribe or bestow a different social status. The vigilance cell has not come out with any such evidence or record on the basis of which the petitioner would fall in any other caste or tribe, other than NT (D).

15. Having concluded that the four sub parts viz. Laadjin, Raavjin, Mathuraajin and Bhusaarjin, under वंजारी जातकुळी and वंशावळी, would only indicate the particular कुळी of the candidate and does not change his social

status and does not place him in any other caste or tribe, that we find that the committee was not justified in rejecting the claim of the petitioner.

16. In view of the above, this petition is allowed.

The impugned order dated 25.05.2022 is quashed and set aside. We direct the caste scrutiny committee to issue "Vanjari-30" NT(D) certificate to the Petitioner, on or before 28.02.2023.

17. Rule is made absolute in the above terms.

[SANJAY A. DESHMUKH, J.]

[RAVINDRA V. GHUGE, J.]