

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

WRIT PETITION NO. 14579 OF 2021

UDESING PARMESHWAR PAWAR
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETRY AND ANOTHER

...

Advocate for Petitioner : Mr. Bayas Anandsingh
AGP for Respondent No.1 and 2/State : Mr. P. S. Patil

...

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

DATE : 21 JULY 2023.

PER COURT :

. Heard the learned Advocate for the petitioner, learned AGP and perused the papers.

2. It needs to be made clear that papers have been allowed to be produced considering the grave urgency in as much as the petitioner is a student, aspiring to get admission in Pharmacy Examination wherein he is supposed to upload the documents by 5:00 pm today. Urgent circulation was granted and we have heard this matter at around 3:30 pm.

3. The petitioner is claiming validation of his tribe certificate as 'Rajput Bhamta' under the provisions of the Maharashtra Scheduled Caste, 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. By the impugned judgment and order, the Committee has refused to grant it for the reasons mentioned therein.

4. We have carefully considered the rival submissions and perused the papers.

5. It is apparent that, the petitioner has been relying upon several validity certificates of the blood relation. The impugned order itself refers to seven such certificates. These validities, the oldest one being issued in the year 1997 by virtue of the direction of this Court in Writ Petition No.1771/1997 has also been brought to our notice. Obviously, we cannot go beyond what has been mentioned in the order passed in that writ petition. The High Court found the petitioner therein namely Pawansingh Sajansingh Pawar to be a 'Rajput Bhamta' who is stated in the impugned order to be the distant cousin of the petitioner from the paternal side. There are the validities issued in the year 2005, few in the year 2007 and still, apparently, the Committee has considered only the matter of Ranjit.

6. The Committee observes that the petitioner merely produced the validity certificates and in spite of having extended opportunity, did not produce the papers relying upon which these earlier validities were granted. We cannot countenance such a stand by the Committee which

is supposed to undertake an inquiry into the tribe claim. Even if by virtue of Section 8 of the Act, the burden is on the claimant to substantiate his claim as belonging to a particular caste or tribe, in our considered view, no sooner copies of validity certificates issued by the Committees at earlier point of time are produced before the Committee in the ongoing inquiry, the claimant alone cannot be insisted to or blamed for production of all the documents which had then prevailed over the Committees while recognizing the claims of validity holders. We cannot comprehend as to why the Committee cannot take initiative and call for the records from the respective Committees. No such course seems to have been undertaken in the matter in hand.

7. Pertinently, as has now been elaborately discussed in the matter of **Maharashtra Adavasi Thakur Jamat Swarakshak Samiti vs. State of Maharashtra & others** 2023(2) Mh.L.J.785, if the documents produced by the claimants are not found by the Committees to be reliable, it can resort to any inquiry by the Vigilance Cell. It appears that in the present matter even such an inquiry was undertaken. A report was filed. However, there is not even a whisper about the contents of this report in the impugned order. We don't have anything to suggest as to why the Committee thought it fit to ignore the report of the Vigilance, even when it had solicited it. It appears that due to the intervening pandemic between the vigilance report and the time limit within which the Committee was expected to decide the proposal, the Committee had to pass the impugned order.

8. In our considered view, the order has been passed in a slipshod manner with a prejudiced mind to somehow ignore the validity certificates. The Committee could have taken its own time, called for the record it needed from different committees, referred to the contents of the Vigilance report and could have passed the appropriate reasoned and comprehensive order.

9. Considering the aforementioned state of affairs, more so when there are several validities in the blood relation and the oldest validity was issued pursuant to the order of this Court way back in the year 1997, in our considered view, it would be appropriate to remit the matter back to the Scrutiny Committee. It would enable it to deal with the proposal in a more objective manner and would further enable it to touch all the aspects.

10. However, simultaneously, we cannot overlook the exigencies. The petitioner has been relying upon several validities of the blood relations and cannot be allowed to wait for a further period at the cost of his educational career. In the circumstances, it would be proper that the matter is remanded to the Scrutiny Committee but simultaneously, the petitioner is issued a conditional validity which can be made subject to the outcome of the decision to be taken by the Committee. We, therefore, pass the following order :

ORDER

1. The writ petition is partly allowed.

2. The impugned order is quashed and set aside.
3. The matter is remanded back to the respondent no.2/ Scrutiny Committee for decision afresh and in accordance with law as is discussed herein above. However, it shall immediately issue a tribe validity certificate to the petitioner of 'Rajput Bhamta'. It shall be subject to the final outcome of the decision by the Scrutiny Committee.
4. The petitioner shall not be entitled to claim any equities.
5. The order is dictated in the open Court in presence of the learned AGP. He is requested to convey the order immediately to the concerned office so that the petitioner gets certificate in time to enable him to upload it before 05:00 pm.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]