

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

WRIT PETITION NO.12074 OF 2015

Anusaya d/o Sambhaji Kachave ... **PETITIONER**

VERSUS

1. The State of Maharashtra
through its Secretary,
Department of Social Welfare,
Mantralaya – 32.
2. The Divisional Caste Scrutiny Committee
Latur, Tq. & Dist. Latur.
3. The Principal,
Govt. Polytechnic College,
Miraj, Tq. Miraj, Dist. Sangali
4. The Director,
Veermata Jijabi Technical Institute
Matunga, Mumbai

... **RESPONDENTS**

...

AND

WRIT PETITION NO.12075 OF 2015

Shubhangi d/o Madhav Kachave ... **PETITIONER**

VERSUS

1. The State of Maharashtra
through its Secretary,
Department of Social Welfare,
Mantralaya – 32.
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Miraj, Tq. Miraj, Dist. Sangali
4. The Principal,
Singhgad Academy of Engineering,
Kondva (Bk), Pune – 48

... **RESPONDENTS**

...

Advocate for Petitioner/s : Mr. Ameya Sabnis i/b. Ms. S.R. Avhad
A.G.P. for respondents : Mr. A.S. Shinde

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

DATE : 25.08.2023

ORDER (MANGESH S. PATIL, J.) :

Petitioners are challenging the order passed by the Scrutiny Committee rejecting their tribe claims as 'Rajput Bhamta'.

2. The petitioners are the real cousins whose claims have been decided separately by the Committee but on the same day that is 19.08.2015 and the orders are in verbatim same, obviously because being the real cousins they must have been relying upon the same set of facts and evidence. We, therefore, propose to decide these matters together to avoid rigmarole.

3. We have heard both the sides extensively and perused the papers including the original files of the Scrutiny Committee.

4. At the outset, it is necessary to note that there is some dispute about the genealogy being pointed out by both these petitioners in respect of one Dilip Narayan Kachave stated to be related to them and which in our considered view stands substantiated from the fact that petitioner Shubhangi's father Madhav has filed affidavit so also both these petitioners' have filed the affidavits showing the genealogy wherein Dilip Narayan Kachave is not to be found anywhere. The affidavit purportedly sworn by Dilip Narayan Kachave has been filed in support of the petitioners' claim, wherein, he has shown genealogy to demonstrate as to how his great great grandfather Udaysingh Kachave was the common ancestor who was survived by two sons Hybatrao and Sakharam. He being the great grandson of Hybatrao and petitioners' father being the great grandsons of Sakharam.

However, conspicuously in his own file he has not demonstrated any such genealogy and is coming forward apparently to support the petitioners. We therefore do not find any error in the committee's decision not to extend the benefit of Dilip's validity to the petitioners.

5. However, no such dispute can be raised and entertained in respect of the fact that in the branch of Sakharam there were two sons Venkoba and Hariba. Petitioners are the great grand children of Venkoba. The great grand daughter Anuja Ankush Kachave of Hariba possesses a certificate of validity. She has also filed affidavit demonstrating the genealogy showing petitioner Anusaya as a daughter of Sambhaji and though she has omitted to state the other petitioner Shubhangi as the great grand child of Sakharam she has shown her father Madhav to be the grand son of Venkoba.

6. The Committee has refused to extend the benefit of Anuja Ankush Kachave's validity not by doubting the genealogy but for the reason that the petitioners had failed to produce the documents based on which Anuja Ankush Kachave had obtained the validity certificate in the year 2006. If at all the Committee was so keen it could have itself called for the record and examined that aspect instead it has expected the petitioners to produce the record which formed the basis for the then Committee to issue certificate of validity of Anuja. This approach of the Committee is highly objectionable beside being illegal. We, therefore, are of considered view that there was no sound reason for the Committee not to extend the benefit of the validity

issued to Anuja to the petitioners.

7. Pertinently, the Committee has not reached a conclusion that Anuja had obtained the certificate of validity by resorting to some fraud and has not even expressed its intention to undertake reverification of her certificate of validity even if it is assumed that it is entitled to do so.

8. The Committee has observed that the petitioners were unable to produce any favourable record of the period prior to the presidential order dated 21.11.1961. We fail to understand as to how a person would stand to lose his caste or tribe merely because he is unable to produce the old record. It may not be possible for every one to be able to have some record of the older times but that in our considered view cannot *ipso facto* result in discarding the claims out rightly.

9. In the light of the above, the impugned orders are not sustainable in law being perverse and arbitrary and the petitioners deserve to be extended the benefit of validity of Anuja Ankush Kachave.

10. The writ petitions are allowed. The impugned orders are quashed and set aside. The respondent – scrutiny committee shall immediately issue tribe validity certificates to the petitioners

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)