

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 1849 OF 2023

Prabhat Urwashi Madavi,
Aged about 17 years, Occupation - Student,
Minor through natural guardian
mother Urwashi Dhanraj Madavi,
Aged about 43 years,
Occupation : Service as Teacher,
R/o. Arjuni Tukum, Tah. Warora,
District – Chandrapur – 442907.

.... **PETITIONER**

// VERSUS //

- 1) State of Maharashtra,
through its Secretary,
Social Justice and Special Assistance
Department, Mantralaya,
Mumbai-32.
- 2) The Sub Divisional Officer, Warora,
Tah. Warora, District – Chandrapur.

.... **RESPONDENTS**

Mr. Ram Karode, Advocate assisted by Mr. M.V. Rai, Advocate for
petitioner.
Mr. A.A. Madiwale, Assistant Government Pleader for respondent
Nos.1 and 2.

CORAM : A. S. CHANDURKAR AND M.W. CHANDWANI, JJ

DATED : APRIL 27, 2023

ORAL JUDGMENT : (Per A. S. Chandurkar, J.)

1. **Rule.** Rule made returnable forthwith and heard learned
Counsel for the parties.

2. The challenge raised in this petition is to the order dated 05.10.2022 that has been passed by the Sub-Divisional Officer, Warora, District Chandrapur refusing to issue tribe certificate to the petitioner in the name of his mother.

3. The parents of the petitioner who were married on 13.05.2003, separated pursuant to decree of divorce by mutual consent under Section 13 (B) of the Hindu Marriage Act, 1955. This decree was made effective from 05.08.2009. The petitioner claims that since his birth on 15.05.2005, he has been residing with his mother. When the petitioner sought issuance of caste certificate belonging to “Gond” Scheduled Tribe based upon the documents of his mother, the said request was refused by the Sub-Divisional Officer.

4. The learned counsel for the petitioner has referred to the judgment of the Hon’ble Supreme Court in *Rameshbhai Dabhai Naika Vs. State of Gujrat and Others*, (2012) 3 SCC 400 as well as order passed in *Writ Petition No. 8381/2019* on 27.06.2022 (*Ku. Avanti Malti Upadhye Vs. District Caste Certificate Scrutiny Committee, Wardha*). It is submitted that on these counts the mother’s documents could be considered for issuance of caste certificate. The petitioner’s

mother has been issued validity certificate of belonging to “Gond” Schedule Tribe.

4. The learned Assistant Government Pleader submits that it would be necessary to consider the documents of the petitioner’s father while issuing the caste certificate. However, he does not dispute the decisions on which reliance is placed by the learned counsel for the petitioner.

5. In these facts, we find that the parents of the petitioner having separated and the petitioner, a minor, is residing with his mother, it would be necessary for the Sub-Divisional Officer to consider the petitioner’s request for issuance of tribe certificate by referring to the documents of his mother.

6. In light of the judgment of the Hon’ble Supreme Court in *Rameshbhai Dabhai Naika* (supra), the following order is passed :

- (i) The order dated 05.10.2022 passed by the Sub-Divisional Officer, Warora, District Chandrapur is set aside.
- (ii) It is directed that the documents submitted by the petitioner with regard to his mother shall be considered for

the purpose of issuance of tribe certificate. To enable the Sub-Divisional Officer to consider such request, the petitioner through his guardian shall attend the Office of Sub-Divisional Officer on 03.05.2023.

- (iii) Since the petitioner seeks to pursue further education, the Sub-Divisional Officer shall within a period of fifteen days from that day consider the said request and take necessary decision in the matter on issuance of tribe certificate. Needless to state that such certificate would be subject to verification if the same is to be relied upon for the further purposes.

7. The Writ Petition is disposed of in aforesaid terms. Rule accordingly. No costs.

(M.W. CHANDWANI, J.)

(A. S. CHANDURKAR, J.)

Kirtak