

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

WRIT PETITION NO.6244 OF 2022

Mohammad Adi S/o Ghazi **Petitioner**
Mohammad Shahabuddin, Aged
17 years, (Minor), Occ: Student,
Through father (Natural
Guardian)

Ghazi Mohammad Sahabuddin
S/o Ghulam Zainul Abeddin,
Aged 49 years, Occ, Service,
R/o Badi Had, Sofi Chowk,
Wadegaon, Akola.

-Vs.-

The District Caste Certificate **Respondent**
Scrutiny Committee, Akola.
Through, its Chairman, Second
Floor, Administrative Building,
Collector's Office, Akola.

Mr. Zeeshan Z. Haq, counsel for the petitioner.
Mr. M. K. Pathan, A.G.P. for respondent.

**CORAM: ROHIT B. DEO AND
MRS. VRUSHALI V. JOSHI, JJ.**

DATE : 24th MARCH, 2023

O R A L J U D G M E N T (Per : Vrushali V. Joshi, J.)

Heard.

2. Rule. Rule made returnable forthwith. Heard finally by consent of the learned counsel appearing for the parties.

3. The petitioner is challenging the order dated 13.09.2022 passed by respondent Committee invalidating the caste claim of the petitioner. The petitioner is a student, who has completed his 12th standard education from Shahababu Urdu High School and Junior College of Arts and Science, Patur, Akola. On 27.01.2020, the Sub-Divisional Officer, Balapur issued a caste certificate in favour of the petitioner, which shows his caste as “Naikwadi” which is recognised as Vimukta Jati (A) at Sr.No.1(B) under the Government Resolution CBC/1361-M dated 21.11.1961 as amended from time to time.

4. The authorised personnel from said College forwarded the caste certificate of the petitioner to the respondent Committee for verification. In support of his

caste claim, petitioner submitted the documents as under:

a. The Caste Certificate issued by the Sub-Divisional Officer, Achalpur, dated 27.01.2020.

b. The school Leaving Certificate of primary school of the Petitioner issued on 03.05.2014.

c. The enrollment certificate issued on 17.07.2021.

d. The school Leaving Certificate of high school of the Petitioner issued on 17.08.2020.

e. The primary school leaving certificate of father of the Petitioner, dated: 06.05.1965.

f. The enrollment register entry issued on 17.07.2021.

g. The school leaving certificate of primary school of grandfather of Petitioner, dated :01.04.1949.

h. The caste validity certificate of aunt of Petitioner dated: 27.10.2006.

i. The caste validity certificate of aunt of Petitioner dated: 15.01.2020.

j. The caste validity certificate of uncle of Petitioner dated: 18.10.2001.

k. The caste validity certificate of aunt of Petitioner dated: 18.10.2001.

- l. The primary school leaving certificate of uncle of Petitioner dated: 30.06.1985.
 - m. The high school leaving certificate of uncle of Petitioner dated: 14.07.1984.
 - n. The high school leaving certificate of aunt of Petitioner dated: 19.09.1995.
 - o. The primary school leaving certificate of aunt of Petitioner dated: 03.04.1980.
 - p. The primary school leaving certificate of aunt of Petitioner dated 15.05.1979.
 - q. The family tree.
5. The petitioner along with his father remained present before respondent Committee and submitted written reply stating that validity certificate has already been issued by the authority in favour of three sisters and one brother of father of petitioner, who are uncle and aunt of the petitioner.
6. The research officer of District Caste Certificate Verification Committee, Akola issued a notice to the petitioner calling upon the petitioner for further say and production of documents, which were produced by the petitioner. However, the respondent invalidated the

claim of the petitioner belonging to “Naikwadi” caste vide order dated 13.09.2022. Therefore, the petitioner has filed this writ petition.

7. The learned counsel appearing for the petitioner has urged that the Committee has not considered the documents filed prior to 1961-the school leaving certificate of grandfather of petitioner i.e. Ghulam Zainul Abeddin Ghulam Mustafa. The grandfather of the petitioner passed out from school on 01.04.1949 and the caste of grandfather of the petitioner is shown as “Naikwadi”. The validity certificate issued by the authority in favour of the uncle and aunt of the petitioner are not considered by the Committee and also failed to consider the documents filed along with the said caste certificate granted in favour of the uncle and aunt of the petitioner. Therefore, prayed to set aside the said order passed by the Caste Scrutiny Committee and declare the petitioner belongs to “Naikwadi” caste, which is recognised as Vimukt Jati (A).

8. The respondents filed their reply and stated that though the documents are filed on record, the school leaving certificate is dated 26.06.2010, which is the recent document. The recent documents are filed mentioning the caste as “Naikwadi”, which is not a conclusive proof and hence Scrutiny Committee has rejected it.

9. The school leaving certificate issued by the Head Master of Zilla Parishad Urdu Primary School, Wadegaon, Tq. Balaplur dist. Akola in favour of the grandfather of the petitioner is prior to 1961. When the respondent Committee called the original record of the said entry for verification, the headmaster informed the respondent Committee that the said record was not available in the school for verification. Therefore, said document was rejected.

10. The validity certificates issued to the relatives are of the year 1984, which pertains to recent period and

therefore, are rejected as conclusive proof. As the petitioner has not filed trustworthy documents prior to deemed date to substantiate his caste claim and therefore, the respondent Committee rightly rejected the caste claim of the petitioner.

11. The challenge in this petition is to the order dated 13.09.2022. The Committee while invalidating the caste claim has not considered the validity certificate issued to the family members like the brother, sister, uncle and aunt of the petitioner. The document which is filed on record is of grandfather. Said document is not considered by the Scrutiny Committee only on the ground that the original was not produced by the school. The school has misplaced it. The paper publication was also filed by the school, but it was not considered by the Scrutiny Committee. This Court has passed the judgment in **Apurva Nichale Vs. Divisional Caste Certificate Scrutiny Committee, 2010(6) Mh.L.J,401** and **Sangita Madan Ingale Vs. Vice Chairman Joint Commissioner**

Scheduled Tribe Caste Certificate Scrutiny Committee,
Amravati and another in Writ petition No.1009 of 2007
in which it is observed that in absence of findings regarding fraud, mis-representation in issuance of caste validity certificate in the name of blood relatives there cannot be different conclusion than one that the petitioner no.2 is entitled to get the validity certificate in his favour.

12. In view of the above, writ petition is allowed. We set aside the impugned order dated 13.09.2022 and direct the District Caste Scrutiny Committee to issue validity certificate to the petitioner.

13. Rule is made absolute in the above terms. No order as to costs.

(MRS.VRUSHALI V. JOSHI, J)

(ROHIT B. DEO)