



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

931 WRIT PETITION NO. 2934 OF 2021

VIRAJ SAHEBRAO RAJPUT

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Mr. Patil Prakashsing B.

AGP for Respondent Nos. 1 & 2 : Mr. S.P. Joshi

...

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

DATE : 06 AUGUST 2024

PER COURT :

Heard both the sides. The petitioner is challenging the order of invalidation of her Rajput Bhamta (10) VJ-A tribe certificate.

2. Learned Advocate for the petitioner submits that petitioner's real cousin Harshda was granted certificate of validity by Nasik Scrutiny Committee way back in the year 2011. The impugned order does not seek to take exception to it and merely seeks to discard it by observing that copy of the order passed in the matter was not produced and the Committee should not fetch it from Nashik Scrutiny Committee. He would submit that without

taking pains the Committee could not have refused to extend the benefit of validity to the petitioner.

3. Learned Advocate would further submit that apart from the validity of Harshada even the Committee has refused to consider the pre-presidential order record, wherein, the petitioner's father and grandfather were described in the school record, only on the ground that word 'Bhamta' was not suffixed to it. He would further submit that no independent enquiry was conducted by the Committee by resorting to the provisions of Rule 12 of Rules framed under the Act 23 of 2001. The petitioner cannot be deprived of deriving the benefit of validity possessed by Harshada.

4. Learned AGP submits that the matter deserves to be remanded since the Committee has not resorted to any vigilance enquiry and even had not waited for the record of Harshada to be received from the Nashik Scrutiny Committee.

5. The Committee was not ready to rely upon the documents placed on record by the petitioner, still, it did not resort to vigilance enquiry as laid down in the matter of

Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Versus State of Maharashtra and others, **2023 SCC Online SC 326**. In such cases even affinity test would be relevant and ought to have been resorted to by the Committee. The Committee having not resorted to such established procedure and did not even wait for the record of Nashik Scrutiny Committee in the matter of Harshada stated to be petitioners first degree cousin. The matter deserves to be remanded back to the Scrutiny Committee for taking the decision afresh.

6. The writ petition is allowed partly. The impugned order is quashed and set aside. The matter is remanded back to the respondent no. 2 – Scrutiny Committee for decision afresh in light of the observations made herein above.

7. The petitioner shall appear before respondent no. 2 – Scrutiny Committee on 16 August 2024 and the Committee shall thereafter decide the proposal as expeditiously as possible and in any case within a period of five weeks.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]