



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

983 WRIT PETITION NO. 11919 OF 2024

Riyazkhan Sarwarkhan Pathan

VERSUS

The State Of Maharashtra Through The Principal Secretary And Others

...

Advocate for the Petitioner : Mr. Thorat Chandrakant R.

AGP for Respondents: Mr. V.M. Kagne

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

DATE : 23.10.2024

PER COURT :

Heard both the sides.

2. The petitioner is challenging the order of the competent authority, refusing to issue him 'Tadvi' scheduled tribe certificate as also the order of the respondent-scrutiny committee in appeal, thereby has dismissed the appeal, sustaining the formers order.

3. It is trite that the enquiry to be undertaken at the time of considering a request for issuance of a scheduled caste/scheduled tribe certificate to be undertaken by a competent authority under the Maharashtra Act XXIII of 2001, under Section 3, is merely to search for some *prima facie* material substantiating the claim. Strict proof is not contemplated at that stage of the proceeding, for, every certificate issued under that provision would be subject to validity to be granted by the scrutiny committee at a later point of time, in a proceeding under Section 7.

4. Going by the reasoning assigned by the committee, the entire exercise, befitting an enquiry into the validity of a tribe certificate, has been under

taken. Even, a school record of 1959, which was in Urdu has been doubted and sent for analysis to an handwriting expert. Even before its arrival, the impugned order has been passed, perhaps, as is being submitted by the learned A.G.P, the petitioner having approached this Court and invoked contempt jurisdiction since the earlier order of the committee was set aside by the High Court in Writ Petition No. 7937/2013, by the order dated 08.01.2015 and the matter was remitted back for decision afresh of the appeal expeditiously, but it was not decided for years together.

5. Whatever may be the reasons, when there is *prima facie* record as indicated even in the order of the committee in appeal, demonstrating that the petitioner's father was being described as 'Tadvi' in the school record, in our considered view, the approach of the competent authority as well as that of the committee is inappropriate. There has been a *prima facie* material, which both these authorities have conveniently ignored merely on the basis of surmises and conjectures.

6. In light of above, we are of the firm view that the orders under challenge are arbitrary and capricious, besides being perverse, and are liable to be quashed and set aside.

7. The writ petition is allowed.

8. The impugned orders are quashed and set aside. The respondent-competent authority shall issue tribe certificate to the petitioner of 'Tadvi' scheduled tribe within seven days from today.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

mkd/-