



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.14812 OF 2021**

shnavi d/o Sanjay Pawar

Age- 19 years, Occ. Student,
R/o Kamgar Colony, Chikalthana,
Aurangabad, Tq. & Dist. Aurangabad.

..Petitioner

Versus

1. The State of Maharashtra
Department of Tribal Development,
Mantralaya, Mumbai-32.
Through its Secretary.
2. The Scheduled Tribe Certificate Scrutiny
Committee, Aurangabad Division, Aurangabad,
Through its Member Secretary.

..Respondents

...

Mr. S. C. Yeramwar, Advocate for the Petitioner.
Mr. N. S. Tekale, AGP for Respondent Nos.1 and 2.

...

**WITH
CIVIL APPLICATION NO.2520 OF 2022
IN
WRIT PETITION NO.14812 OF 2021**

Mr. Parmeshwar Bhagwan Khokle,
Age: 44 years, Occ. Secretary,
Original for Rights of Tribal
R/o. Flat No.11, Vadesev Appt.
Sutgirini Chowk, Garkheda,
Aurangabad.

..Applicant

Versus

1. The State of Maharashtra
Department of Tribal Development,
Mantralaya, Mumbai-32.
Through its Secretary.
2. The Scheduled Tribe Certificate Scrutiny
Committee, Aurangabad,
Through its Deputy Director (R).
3. The Commissioner and Competent Authority,
State CET Cell, Maharashtra State, Mumbai
(Controller of Admission Process)
8th Floor, New Excelsior Building, A.K. Nayak Road,
Fort, Mumbai- 1.

4. Vaishnavi d/o Sanjay Pawar
Age- Major, Occ. Student,
R/o.

..Respondents

...

Mr. S. N. Lale Yelwatkar, Advocate for the Applicant.

Mr. N. S. Tekale, AGP for Respondent Nos.1 to 3.

Mr. S. C. Yeramwar, Advocate for Respondent No.4.

...

**CORAM : SMT. VIBHA KANKANWADI AND
S. G. CHAPALGAONKAR, JJ.**

JUDGMENT RESERVED ON :- 23rd JANUARY 2024.

JUDGMENT PRONOUNCED ON :- 02nd FEBRUARY 2024.

JUDGMENT (Per: S. G. Chapalgaonkar, J.):

1. Rule. Rule made returnable forthwith. With the consent of the parties, matter is taken up for final hearing at the stage of admission.

2. The petitioner approaches this Court under Article 226 of the Constitution of India impugning order dated 18.03.2016 passed by respondent no.2-Scheduled Tribe Certificate Scrutiny Committee, Aurangabad invalidating her tribe claim as belonging to 'Thakur', Scheduled Tribe and seeks declaration to hold that the petitioner belongs to 'Thakur', Scheduled Tribe.

3. Mr. Yeramwar, learned Advocate appearing for the petitioner submits that the petitioner belongs to 'Thakur', Scheduled Tribe. The Competent Authority i.e. Sub Divisional Officer, Aurangabad issued caste certificate to the petitioner for 'Thakur', Scheduled Tribe. While petitioner was prosecuting her studies, her tribe certificate is referred to respondent no.2-Committee, which has been duly supported by the affidavit containing genealogy in Form-F and certificates of validity issued in favour of her father and real uncle. The proposal of the petitioner was referred to vigilance cell. On conclusion of the vigilance enquiry, the report was submitted to the Committee on 07.08.2020, which was served upon the petitioner

alongwith show cause notice dated 20.08.2021. The petitioner appeared before the Committee and submitted detail reply controverting adverse remarks in the vigilance report. However, the Committee erroneously invalidated the caste claim of the petitioner.

4. Mr. Tekale, learned AGP appearing for respondent nos.1 and 2 supports the order of the Committee. He would submit that although father and real uncle of the petitioner have been bestowed with the tribe validity certificates, those are obtained by suppressing contra entries. The school record of the petitioner's grandfather namely Fakirchand Runjaji Pawar has been manipulated. The school admission entry in the original register records his caste as 'Maratha'. However, subsequently the manipulated entries are inserted in the same register at different serial numbers indicating caste as 'Thakur'. He would submit that the Committee recorded adequate reasons while declining to rely on the validity granted in favour of blood relations of the petitioner and passed order thereby invalidating petitioner's tribe claim.

5. We have considered submissions of learned Advocate appearing for the respective parties and perused the original file received from the Committee pertaining to the tribe claim of the petitioner as well as other blood relatives. This Court had called original school admission register from Headmaster, Mahanagarpalika Prathamik Shala va Madhyamik Vidyalaya at Chikalthana, Aurangabad to find out the correctness of entry as regards to the petitioner's grandfather i.e. Fakirchand Runjaji Pawar after noting that the school record certified by the Headmaster shows conflicting entries as regards to the caste. The Headmaster of the school personally presented himself alongwith original school admission register and we had advantage of looking to the original record. Apparently, the petitioner relies upon the school record of her grandfather i.e.

Fakirchand Runjaji Pawar, wherein the caste is entered as 'Thakur'. The entry relied upon by the petitioner is at serial no.17/239 in school admission register. However, as per the document collected by the Vigilance Officer the entry of same name appearing at serial no.160 records caste as 'Maratha'. We have perused original record presented by the Headmaster in pursuance of the order dated 16.10.2023 passed by this Court. The original register records entry with serial numbers, names, caste, date of admission, date of birth, the class of admission, year of admission etc.. The serial no.160 in the said register records name Fakirchand Runjaji Pawar. The caste is mentioned as 'Maratha'. The date of admission is mentioned as 22.06.1955. The date of birth appeared to be corrected later on in red ink. However, there is no manipulation or correction as regards to the entry of caste. The same register continues the entries of names upto serial no.557, where, there is remark that the entries in the old register carried forward (जुन्या रजिस्टरवरील उतारा नविन रजिस्टरवर घेतला आहे). On next page at serial no.239 there is one entry in the name of Fakirchand Runjaji Pawar, which records date of admission as 22.06.1955. The caste is mentioned as 'Thakur'. The date of birth is mentioned as 27.03.1948. It is, therefore, evident that in one and the same register, original entries are continued upto certain serial numbers i.e. 558 and thereafter, the entries are carried forward from the old register. The Headmaster presented another register in respect of cousin grandfather of the petitioner i.e. Shankar Runjaji Pawar. The entry is at serial no.212/549, which is dated 12.08.1963. The caste is mentioned as 'Maratha'. We cannot draw definite conclusion on the basis of aforesaid School record. However, certainly contra entry in school record regarding Shankar Pawar can be observed.

6. The petitioner further relies upon the caste validity issued in favour of Kailas Fakirchand Pawar i.e. grandfather, which has been

granted vide order dated 23.06.2011. We have perused original claim file of Kailas, it appears that now the Committee has issued him a show cause notice dated 07.01.2022. Perusal of the documents in said file shows that the Committee relied upon the validity granted in favour of blood relatives of Kailas Fakirchand Pawar and passed (cyclostyle) order wherein blank spaces are filled in by pen. No other material appears to have considered observing that many blood relatives of the petitioner are issued validity under orders of this Court. It appears that, school register entry of kailas depicting caste as 'Thakur' is relied. However, on perusal of record, we found it to be suspicious and unreliable.

7. The petitioner further relies upon the validity granted in favour of his father i.e. Sanjay Fakirchand Pawar as per order of this court dated 09.05.2014 in Writ Petition No.124/2008. Further, real uncle of the petitioner has received validity under order of this Court and said decision is not challenged. Pertinently, while granting validity in favour of the petitioner's father, validity granted in favour of petitioner's uncle dated 09.08.2011 has been relied upon. Therefore, claim of the petitioner largely depends on the validity granted in favour of her father and real uncle.

8. The Committee while invalidating caste claim of the petitioner observed that there are many contra entries in blood relations of the petitioner including school admission entry in the name of her grandfather dated 22.06.1955. The Committee has further observed that the validity granted to Kailas Fakirchand Pawar i.e. uncle of the petitioner is during the regime of Mr. V. S. Patil under whose Chairmanship many irregularities were found and Government was pleased to issue directions to review such certificates. Although, Committee has recorded certain adverse remarks pertaining to the validity granted in favour of petitioners father and real uncle and also

issued show cause notices to them, considering law laid down by the Supreme Court of India in case of *Apoorva d/o Vinay Nichale Vs. Divisional Caste Scrutiny Committee and Ors.*¹, we deemed it appropriate to set aside the impugned order passed by the Committee and direct issuance of caste validity certificate to the petitioner, which shall be subject to the result of enquiry initiated by the Committee in respect of validity certificates issued in favour of her father and real uncle. Hence, we proceed to pass following order:-

ORDER

- a. Writ Petition is partly allowed.
- b. The impugned order dated 18.03.2016 passed by respondent no.2-Scheduled Tribe Certificate Scrutiny Committee, Aurangabad is hereby quashed and set aside.
- c. The respondent no.2-Committee is directed to issue caste validity certificate in favour of the petitioner as belonging to 'Thakur', Scheduled Tribe, which shall be subject to the result of enquiry / proceeding initiate in respect of validity granted in favour of uncle i.e. Kailas Fakirchand Pawar and father i.e. Sanjay Fakirchand Pawar.
- d. Rule is made absolute in above terms.
- e. Writ Petition is disposed of.
- f. In view of disposal of Writ Petition, the present Civil Application is also disposed of.

(S. G. CHAPALGAONKAR)
JUDGE

(SMT. VIBHA KANKANWADI)
JUDGE

Devendra/February-2024