

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

971 WRIT PETITION NO.8153 OF 2020

Kshitija d/o Narayan Auradkar
Age-20 years, Occ. Student,
R/o A/o Karadkhed, Tq.Degloor,
Dist. Nanded .. **Petitioner**

VERSUS

1. The State of Maharashtra
Department of Tribal Development,
Mantralaya, Mumbai-32
2. The Scheduled Tribe Certificate Scrutiny
Committee, Aurangabad Division, Aurangabad
.. **Respondents.**

Advocate for Petitioner : Mr. Yeramwar Sushant C.
AGP for Respondents: Mr. P. K. Lakhotiya

971 WRIT PETITION NO.8154 OF 2020

Narayan s/o Lalagod Auradkar
Age-49 years, Occ. Service,
R/o A/o Karadkhed, Tq.Degloor,
Dist. Nanded .. **Petitioner**

VERSUS

1. The State of Maharashtra
Department of Tribal Development,
Mantralaya, Mumbai-32
2. The Scheduled Tribe Certificate Scrutiny
Committee, Aurangabad Division, Aurangabad
Through its Member Secretary
3. The Chief Executive Officer,
Zilla Parishad, Nanded .. **Respondents.**

Advocate for Petitioner : Mr. Yeramwar Sushant C.
AGP for Respondents: Mr. P. K. Lakhotiya

...

**CORAM: S. V. GANGAPURWALA &
SHRIKANT D. KULKARNI, JJ.**

DATE: 11th DECEMBER, 2020

ORAL JUDGEMNT (*Per S. V. Gangapurwala, J.*):

1. Rule. Rule returnable forthwith. With the consent of learned Counsel for respective parties matters are taken up for final hearing.

2. The caste claims of the petitioners as Rajgond is invalidated.

3. Mr. Yeramwar, learned Counsel for the petitioners submits that the committee verified the census documents of the year-1951. The name of the great grandfather of the petitioner Iragond is recorded and is shown to belong to Rajgond, Scheduled Tribe. The school record of the grand father of the petitioner of the year 1964 also records caste as Rajgond. There is not a single contra evidence on record. Initially, in the caste column in the school record of the father of the petitioner the caste was recorded as Telang.

Telang is not a caste at all. After due permission the same is corrected to Rajgond. In case of school record of the uncle, initially Gondkalal was mentioned the same was corrected as Rajgond. In fact, Gondkalal is not a caste at all. Gond is now a separate scheduled tribe and Gondkalal is not a caste. The learned Counsel submits that old record consistently shows the caste of the petitioners family as Rajgond.

4. The learned Counsel further submits that affinity test is not the litmus test. The learned Counsel relies on the judgment of the Apex Court in case of **Anand V/s. Committee for Scrutiny and Verification of Tribe Claims and others** reported in **2011 AIR (SCW) 6559**.

5. Mr. Lakhotiya, the learned A.G.P. submits that in the school record of the petitioner's father the caste was recorded as Telang and the same is subsequently corrected. In case of uncle also the caste was recorded as Gondkalal subsequently it is corrected as Rajgond. The

petitioner failed in the affinity test also. In one of the relative of the petitioner namely Iragond Lingagond the entry of the case is interpolated. The learned A.G.P. further submits that the caste Telangi is in V.J. category. The petitioners failed in the affinity test. All these aspects was rightly considered by the committee.

6. The petitioner to prove his case has placed reliance on the following documents.

अ.क्र.	दस्तावेजचा प्रकार	दस्तावेजधारकाचे नाव	अर्जदार यांच्याशी नाते	जातीची नोंद	नोंदणी दिनांक
१.	जात प्रमाणपत्र	औरदकर द्वितीजा नारायणराव	अर्जदार क.०१	राजगौड	१९/१०/२०२०
२.	बेनाफाईड सर्टिफिकेट	द्वितीजा नारायणराव औरदकर	अर्जदार क.०१	---	२१/१०/२०२०
३.	शालेय प्रवेश व निर्गम उतारा	औरदकर द्वितीजा नारायणराव	अर्जदार क.०१	राजगौड	२०/०६/२००७
४.	शालेय प्रवेश व निर्गम उतारा	औरदकर द्वितीजा नारायणराव	अर्जदार क.०१	राजगौड	१८/६/२०११
५.	आधार कार्ड	औरदकर द्वितीजा नारायणराव	अर्जदार क.०१	---	---
६.	शिधा पत्रिका प्रत	औरदकर लालागौड इरागौड	आजोबा	---	---
७.	शालेय प्रवेश व निर्गम उतारा	औरदकर नारायणगौड लालागौड	वडील	राजगौड	१२/०७/१९७६
८.	शालेय प्रवेश व निर्गम उतारा	औरदकर नारायणगौड लालागौड	वडील	राजगौड	९/७/१९८१
९.	सेवा पुस्तकाच्या पहिल्या पानाची प्रत	औरदकर नारायणगौड लालागौड	वडील	राजगौड	---
१०.	जात प्रमाणपत्र	लालागौड इरागौड	आजोबा	राजगौड	१९/०८/१९८२

११.	शाळा सोडल्यावा दाखला	क्षितीजा नारायणराव औरादकर	अर्जदार क.०१	राजगौड	३१/०७/२०१७
१२.	शपथपत्र नमुना फ	क्षितीजा नारायणराव औरादकर	अर्जदार क.०१	राजगौड	२६/१०/२०२०
१३.	शाळा सोडल्यावा दाखला	क्षितीजा नारायणराव औरादकर	अर्जदार क.०१	राजगौड	१७/०६/२०१९
१४.	सेवा पुस्तकाच्या पहिल्या पानाची प्रत	अंतेश्वर गंगाराम कोयलवाड	नातेवाईक	राजगौड	---
१५.	भुमिहिन प्रमाणपत्र	औरादकर नारायणगौड लालागौड	वडील	---	१६/०७/२०१३
१६.	भुमिहिन प्रमाणपत्र	औरादकर लालागौड इरागौड	आजोबा	---	१६/०७/२०१३
१७.	शालेय प्रवेश व निर्गम उतारा	अंतेश्वर गंगाराम कोयलवाड	नातेवाईक	राजगौड	३०/०८/१९६२
१८.	मृत्यु प्रमाणपत्र	लालागौड इरागौड औरादकर	आजोबा	---	२२/१०/२०२०
१९.	शालेय प्रवेश व निर्गम उतारा	ज्ञानाबाई लालागौड औरादकर	आत्या	राजगौड	२९/०७/१९८७
२०.	शालेय प्रवेश व निर्गम उतारा	औरादकर अंजनबाई लालागौड	आत्या	राजगौड	२७/०६/१९९१
२१.	शालेय प्रवेश व निर्गम उतारा	औरादकर रोहन नारायणराव	भाऊ	राजगौड	०१/०७/२०१०
२२.	शालेय प्रवेश व निर्गम उतारा	ठरागौड लिंगागौड	नातेवाईक	राजगौड	१७ अमरदाद ७२ फसली
२३.	वय आणि राष्ट्रीयत्व प्रमाणपत्र	औरादकर क्षितीजा नारायणराव	अर्जदार क.०१	---	२६/०६/२०१९
२४.	वय आणि अधिवास प्रमाणपत्र	औरादकर क्षितीजा नारायणराव	अर्जदार क.०१	---	७/१/२०१७
२५.	सन १९७१ ची जनगणना प्रत	ईरागौड	पंजोबा	राजगौड	१९७१
२६.	ग्रामपंचायत कर पावती	औरादकर नारायण लालागौड	वडील	---	१/७/२०१३
२७.	जात प्रमाणपत्र (सरपंच)	औरादकर रोहन नारायण	भाऊ	राजगौड	१०/७/२०१७
२८.	जात प्रमाणपत्र (तलाठी)	औरादकर रोहन नारायण	भाऊ	राजगौड	१२/७/२०१७
२९.	जात प्रमाणपत्र (मंडळ अधिकारी)	औरादकर रोहन नारायण	भाऊ	राजगौड	१२/७/२०१७
३०.	जात प्रमाणपत्र	औरादकर नारायण	अर्जदार क.२	राजगौड	१२/८/१९९१

		लालागौड			
३१.	शालेय प्रवेश व निर्गम उतारा	दत्तात्रयगौड लालागौड	भाऊ	राजगौड	१६/६/१९८०
३२.	शालेय प्रवेश व निर्गम उतारा	दत्तात्रयगौड लालागौड	भाऊ	राजगौड	२०/६/१९८७
३३.	शालेय प्रवेश व निर्गम उतारा	लालागौड इरागौड औरदकर	आजोबा	---	२९/६/१९६४
३४.	जन्म प्रमाणपत्र	औरदकर नारायण लालागौड	अर्जदार क.२	---	२४/७/२०१३
३५.	मृत्यु प्रमाणपत्र	औरदकर लालागौड इरागौड	वडील	---	---
३६.	भूमीहीन प्रमाणपत्र	औरदकर नारायण लालागौड	अर्जदार क.२	राजगौड	---
३७.	जात प्रमाणपत्र (सरपंच)	औरदकर नारायण लालागौड	अर्जदार क.२	राजगौड	---
३८.	जात प्रमाणपत्र (तलाठी)	औरदकर नारायण लालागौड	अर्जदार क.२	राजगौड	---
३९.	जात प्रमाणपत्र (मंडळ अधिकारी)	औरदकर नारायण लालागौड	अर्जदार क.२	राजगौड	---
४०.	भूमीहीन प्रमाणपत्र	औरदकर नारायण लालागौड	अर्जदार क.२	राजगौड	---
४१.	शपथपत्र नमुना फ	औरदकर नारायण लालागौड	अर्जदार क.२	राजगौड	२९/७/२०१३
४२.	निवडणूक ओळखपत्र	नारायण लालागौड	अर्जदार क.२	---	---
४३.	वय आणि अधिवास प्रमाणपत्र	औरदकर नारायणगौड लालागौड	अर्जदार क.२	राजगौड	८/७/२०१३
४४.	जातवैधता प्रमाणपत्र	आनंद बालाजीराव कातेवार	मावसभाऊ	राजगौड	१२/१२/२००७
४५.	शपथपत्र (वैधताधारक)	नारायण लालागौड औरदकर	मावसभाऊ	राजगौड	२९/७/२०१३

7. We have considered the submissions canvassed by the learned Counsel for respective parties.

8. The committee has relied upon the sensors record and found the caste of the great grandfather of the petitioner Iragond recorded as

Rajgond. The committee has also doubted entry of caste recorded as Rajgond in case of the grandfather of the petitioner namely Lalagond Iragond. In case of the uncle of the petitioner the caste was recorded as Gondkalal. Gondkalal is not a caste. Now Gond is a separate Scheduled Tribe and Rajgond is also Scheduled Tribe. The said entry is corrected as Rajgond and in one entry the entry of Rajgond was recorded. It cannot be said to be a contra entry. The entry appears to be Rajgond of the year-1987.

9. Old entries have more probative value and also there are no contra entries of caste recorded. The affinity test is not the litmus test as is held by the Apex Court in case of *Anand (Supra)*.

10. In light of the above, the impugned judgments are quashed and set aside. The committee shall issue the validity certificate to the petitioners of Rajgond, Scheduled Tribe immediately.

11. Rule is accordingly made absolute in above terms.

12. Writ Petitions are accordingly disposed of.
No costs.

[SHRIKANT D. KULKARNI, J.]

[S. V. GANGAPURWALA, J.]

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