

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

WRIT PETITION NO.1470 of 2015

Piyush s/o Surendrasinha Chauhan,
Being Minor Represented through his
Natural guardian i.e. Father
Surendra s/o Dattusinha Chauhan,
Age Major, occu: Service,
r/o.27, Udaynagar, Nanded Road Udgir,
Udgir, Tq.Udgir,
District Latur.

...PETITIONER

VERSUS

1. The State of Maharashtra.
2. The Scheduled Tribe Certificate
Scrutiny Committee, Aurangabad
Division, Aurangabad
Through it's Deputy Director (R)
& Member-Secretary.
3. The Sub Divisional Officer,
Udgir, Dist. Latur.

...RESPONDENTS

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Mr.Reddy Ajinkya, Advocate for the petitioner.
Mr.S.K.Kadam, AGP for respondent State.
Mr.K.D.Bade Patil, Advocate for respondent no.2.

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CORAM: S.S.SHINDE

AND

P.R.BORA, JJ.

DATE : March 27th, 2015

ORAL JUDGMENT: (Per S.S.Shinde, J.)

1. Heard. Rule. Rule made returnable and heard
forthwith with the consent of parties.

2. This petition takes exception to order dated 20th September, 2012, passed in Appeal/Latur/4189/10/2011 passed by the respondent no.2 Committee, and so also, to the order dated 21st December, 2010, passed by the Sub Divisional Officer, Udgir.

3. Learned Counsel appearing for the petitioner submits that the petitioner, in support of his case, produced on record as many as four documents before the respondent Committee, including the school leaving certificate of his father Shri Surendra s/o Dattusinha Chauhan and also caste certificate of his father dated 29th July, 1983, mentioning therein caste as Thakur. He submits that when such documents were produced before the Committee, the Committee ought to have allowed the appeal filed by the petitioner, thereby directing the Sub Divisional Officer, Udgir, to issue caste certificate showing that petitioner belongs to Thakur, in favour of the petitioner.

4. In support of his contention, learned Counsel for the petitioner pressed into service un-reported judgment of this Court in the case of **Sudhakar Nagnath Kopurwad Vs.Scheduled Tribe Certificate Scrutiny Committee, Aurangabad and another** dated 12th January, 2011 (Coram:

Naresh H.Patil & S.V.Gangapurwala, JJ.) and, in particular paragraph no.6 thereof, and submits that this Court, in the facts of that case, while considering similar fact situation, observed:

" It would be paradox if the father holds the Caste Certificate as belonging to 'Koli Mahadev', Scheduled Tribe and the son would not be issued the said certificate."

Therefore, Counsel for the petitioner submits that the petition deserves to be allowed.

5. Learned Counsel appearing for respondent Committee vehemently opposed the prayer of the petitioner. He submits that though, from time to time, opportunity was granted to the petitioner, on three occasions, to cause his appearance, to put forth his contention before the Committee, the petitioner did not appear. The petitioner cannot get advantage of his own lapse. Therefore, he submits that the petition may be dismissed.

6. We have heard learned Counsel for the petitioner, learned Counsel for the respondent, and learned A.G.P. for the State. It is not necessary for us to go into the greater details of the case; suffice it to say, upon perusal of the decision of the Committee, that the committee has mentioned the documents submitted by the petitioner, including the caste certificate of the father of the petitioner Shri Surendra s/o Dattusinha Chauhan in which his caste is mentioned as Thakur. Even in other documents caste Thakur is mentioned.

Therefore, in the light of the observations of this Court in the case of Sudhakar Nagnath Kopurwad (supra), it will have to be held that in the present case also, since the petitioner did produce caste certificate of his father mentioning his caste therein as Thakur before the Committee, the Committee ought to have allowed the prayer of the petitioner and ought to have issued directions to the Sub Divisional Officer, Udgir, to issue said caste certificate to the petitioner as belonging to Thakur.

7. In that view of the matter, we quash and set aside the impugned order of the Committee dated 20th September, 2012. As a sequel, the order dated 21.12.2010 passed by the Sub Divisional Officer, Udgir, also stands quashed and set aside. The Sub Divisional Officer, Udgir, is directed to issue forthwith caste certificate to the petitioner as belonging to Thakur. Needless to state that the certificate which may be so issued would be subject to verification by the concerned Caste Scrutiny Committee.

Rule made absolute in above terms.

No order as to costs.

(P.R.BORA)
JUDGE

(S.S.SHINDE)
JUDGE

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