

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**APPELLATE SIDE CIVIL JURISDICTION****WRIT PETITION NO. 7245 OF 2014**

Mayuresh Mohan Londhe,
Minor Aged 18 years,
Residing at 3/125, India United
Mills Building,
Dr. Ambedkar Road,
Parel, Mumbai 400 012.

....Petitioner.

Vs.

- 1 State of Maharashtra
Through its Secretary, Tribal
Development Department,
Mantralaya, Mumbai-400 032.
- 2 Scheduled Tribe Caste Certificate
Scrutiny Committee, Pune Division,
Pune, through its Deputy Director @
and Member Secretary having its
office at 28, Queen's Garden,
Pune-411 001.
- 3 Sub-Divisional Magistrate, Baramati
Sub-Division, Baramati, District Pune.
- 4 Bhartiya Vidya Bhavan's
Sardar Patel Institute of
Technology, Munshi Nagar,
Andheri West, Mumbai-400 058.

....Respondents.

Mr. R.K. Mendadkar a/w Ms. Helen Koli-Mandlik and Mr. C.K.
Bhangoji for the Petitioner.
Mr. A.I. Patel, AGP for Respondent Nos. 1 to 3.
None for Respondent No.4.

**CORAM : ANOOP V. MOHTA AND
K.R. SHRIRAM, JJ.
DATE : 24 APRIL 2015.**

ORAL JUDGMENT (PER ANOOP V. MOHTA, J.):-

Rule. Rule is made returnable forthwith. Heard finally by consent of the parties.

2 The Petitioner has challenged impugned order dated 5 July 2014 whereby, inspite of remand and directions to reconsider the issue with regard to the genealogy of the Petitioner and pass appropriate order, by overlooking the same, though finding is in favour of the Petitioner so far as the genealogy is concerned, and as there is no issue with regard to the genealogy, the question of overlooking the same, in our view, was wrong approach to deal with the matter, as it was remanded for specific purpose of confirmation of genealogy. There are various materials, as well as, the documents to show that the close relatives, including paternal relatives, if already got caste validity certificates of Thakar Scheduled Tribe, the Petitioner, therefore, ought to have been granted the same certificate. To the Petition, Respondents have filed reply dated 20 April 2015 and specifically

averred that “*this Respondent No.2 Committee that this Committee has never disputed about the genealogy of the petitioner came through enquiry report*”. The reference is also made to the Vigilance Committee Report whereby, after due enquiry as contemplated, positive report submitted in favour of the Petitioner, after due interviews and after collection of documents, that those paternal side relatives have been treated as the Thakar Scheduled Tribe.

3 In absence of contra material, it is settled that this Vigilance Committee Report is relevant document to grant the validity certificate. Merely because the Court has remanded the matter back and directed to pass fresh order, that itself ought not to have been a reason to overlook these supporting documents in favour of the Petitioner's caste claim, apart from the judgments of this Court dealing with such aspect. Even otherwise, we have in Mohammad Husain Hisamuddin Shaikh Vs. The State of Maharashtra & Ors. (Writ Petition No.11430 of 2014) dated 23 April 2015, and also from time to time, have already held that the close relatives' validity certificate needs to be respected if no case of fraud and/or misrepresentation is made out. There is no observation in this case about any fraud and/or

misrepresentation. Therefore, the impugned order, so passed by the Authority, in this background, is unsustainable. There is no question to remand the matter for re-consideration again. In our view, the case is made out by the Petitioner for grant of reliefs so prayed in terms of prayer clauses (b) and (c).

4 Therefore, we are inclined to allow the present Petition in terms of prayer clauses (b) and (c).

5 As the Petitioner is taking education and such validity certificate is required, we direct Respondent No. 2 to issue the validity certificate, as early as possible, preferably within eight weeks from today.

6 In view of above, we are also inclined to direct Respondent No.4 to allow the Petitioner to prosecute his further studies in the Engineering Degree Course as a member of Scheduled Tribe and allow him to appear for the examination and to declare the result from time to time in accordance with law.

7 Rule is made absolute in the above terms, with no order as
to costs.

8 The parties to act on the basis of an authenticated copy of
this Judgment.

(K.R. SHRIRAM, J.)

(ANOOP V. MOHTA, J.)