

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

**WRIT PETITION NO.5489 OF 2013
WITH
CIVIL APPLICATION NO.5376 OF 2014
AND
CIVIL APPLICATION NO.14149 OF 2016**

Dinesh Vasant Chavan,
Age 17 years,
Occ. Studying 12th (Science),
Swami Ramdas Junior College,
Girnera Tanda, Aurangabad
u/g. of father -
Vasant s/o. Baburao Chavan,
Age 48 years, Occ.Govt. Service,
r/o. Mhada Colony, House No.93,
Darga Road, New Osmanpura,
Aurangabad ..Petitioner

Vs.

The State of Maharashtra,
through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai
and anr. ..Respondents

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Mr.M.N.Deshmukh, Advocate for petitioner

Mr.S.J.Salgare, AGP for respondent no.1

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**CORAM : R.M. BORDE AND
SANGITRAO S. PATIL, JJ.
DATE : NOVEMBER 16, 2016**

ORDER :

Heard.

2. Rule. With consent of the parties, taken up for final disposal.

3. The petitioner claims that he belongs to '*Thakar*' scheduled tribe and is in receipt of the tribe certificate issued by the competent authority containing certification accordingly. The tribe certificate issued to the petitioner was referred for scrutiny to respondent no.2 - Committee. Respondent no.2 - Committee, after observance of the procedure prescribed under the law and after extending an opportunity of hearing to the petitioner, came to the conclusion that the petitioner has failed to substantiate his claim that he belongs to the scheduled tribe category and as such, directed invalidation of the tribe certificate issued to the petitioner.

4. The petitioner contends that apart from the documentary evidence in the form of the School

Leaving Certificates of the petitioner and his blood relations recording entries of the concerned tribe, the petitioner placed reliance also on the validation certificate issued to his father Vasant Baburao Chavan dated 04.03.2002 and the validation certificates issued to his real sister, namely Pallavi Vasant Chavan and real brother, namely Anant Vasant Chavan dated 07.05.2010 and 09.08.2011, respectively. The reasoned order passed by the Committee, while allowing the claim of the father of the petitioner for issuance of the validity certificate, is placed on record at Exhibit "X". The Committee, after going through the documentary evidence placed on record by the father of the petitioner, directed issuance of the validation certificate in his favour.

5. Apart from the father of the petitioner, his real brother and real sister are also in receipt of the validation certificates issued by the competent authority. It is neither the

contention of the respondents nor any finding has been recorded by respondent no.2 – Committee that the blood relations of the petitioner i.e. his father, brother and sister have secured the validation certificates by practicing fraud or by producing forged or fabricated documents. The Committee, without recording any reason, has invalidated the claim of the petitioner. Even though it is mentioned in the impugned order that the petitioner has failed to answer the affinity test, there are absolutely no reasons recorded to support the said finding. In this context, reliance can be placed on the judgment in the case of **Apoorva d/o Vinay Nichale Vs. Divisional Caste Scrutiny Committee No.1 and others, 2010(6)Mh.L.J. 401.**

6. In view of the judgment referred to above and since it is noticed that three members in the family of the petitioners i.e. his father, brother and sister are in receipt of the validation

certificates issued by the competent authority and that it has not been demonstrated that such certificates have been secured by the blood relations of the petitioner by practicing fraud or upon relying on the forged or fabricated documents, so also correctness and authenticity of those validation certificates has not been challenged, we do not find any impediment in placing reliance on the documents produced by the petitioner i.e. the validation certificates issued in favour of the blood relations of the petitioner. It cannot be logically conceived that although most of the family members of the petitioner belong to '*Thakar*' scheduled tribe category and are in receipt of the validation certificates issued by the competent authority, the petitioner can be singled out for meeting differential treatment. The order passed by respondent no.2 - Committee is illogical and unsustainable and as such, is liable to be quashed

and set aside.

7. The order impugned in this petition dated 01.04.2013 passed by respondent no.2 – Committee is quashed and set aside. Respondent no.2 is directed to issue validation certificate in favour of the petitioner as expeditiously as possible and preferably, within a period of four weeks from today.

8. Rule is made absolute accordingly. The petition stands allowed.

9. In view of disposal of the petition, pending Civil Applications shall stand disposed of.

[SANGITRAO S. PATIL, J.]

[R.M. BORDE, J.]

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