

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.7125 OF 2016

Madhura Bhaskar GaikwadPetitioner
V/s.
The State of Maharashtra & Ors.Respondents

Mr. C.K.Bhangoji I/by Mr. R.K.Mendadkar, Advocates for Petitioner.
Mr. C.P.Yadav, AGP for the Respondent Nos.1 to 4-State.

**CORAM :- B.R.GAVAI &
SANDEEP K. SHINDE, JJ.**

DATE :- 9TH NOVEMBER, 2017.

PC. :-

Rule. Rule made returnable forthwith. Heard by consent.

2 The Petitioner has approached this Court being aggrieved by the order passed by the Respondent-Scrutiny Committee dated 30.1.2016 invalidating claim of the Petitioner belonging to Thakar, Scheduled Tribe.

3 Heard Shri Chintamani Bhangoji the learned counsel for the Petitioner and Mr. Yadav, the learned AGP for the State.

4 The present Petition deserves to be allowed on the short ground that the Petitioner's cousin Aishwarya has been held to be

belonging to Thakar, Scheduled Tribe community by the judgment and order of this Court dated 10.7.2017 passed in Writ Petition No.6849 of 2016. The Division Bench after considering all relevant case-laws and the judgment of the Apex Court in the case of **Anita Gaekwad v. State of Maharashtra & Anr.** in SLP (C) No.23081 of 2010 decided on 16.4.2013 held that merely because there were some stray entries showing caste to be 'Maratha' could not be a ground to discard the other evidence in favour of the Petitioner therein. The Division Bench found that the Petitioner therein was entitled to be granted validity in view of the law laid down by the Division Bench in the case of **Apoorva Vinay Nichale v. Divisional Caste Certificate Scrutiny Committee No.1 and Others** reported in 2010 (6)Mh.L.J.401.

5 It is further to be noted that the Petitioner has already placed on record pre-constitutional documents showing Petitioner's grandfather namely Pandit Baburao Gaikwad was admitted in Zilla Parishad Primary School at Madha on 3.9.1928 and his caste is shown as 'Thakar'. Aishwarya, Petitioner in Writ Petition No.6849 of 2016 is daughter of another son of Pandit namely, Sudhakar whereas the Petitioner is daughter of another son of Pandit namely, Bhaskar. In view of these pre-constitutional documents, we find that

the Petitioner's claim deserves to be allowed on the said ground also. Rule is, therefore, made absolute by quashing and setting aside the order dated 30.1.2016. We hold and declare that the Petitioner belongs to 'Thakar', Scheduled Tribe community.

6 The Respondent-Committee is directed to issue caste validity certificate within a period of four weeks from today.

7 Needless to state that all consequences shall follow.

(SANDEEP K. SHINDE, J)

(B.R.GAVAI, J)