

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY****CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 4725 OF 2010****WITH****CIVIL APPLICATION NO. 1195 OF 2017**

**Ameya Sanjiv Thakur** ... **Petitioner**

**Vs.**

**The State of Maharashtra & Ors.** ... **Respondents**

Mr. R.K. Mendadkar, Adv. for the Petitioner.

Mr. C.P. Yadav, AGP for Respondents Nos. 1 to 3.

Pallavi N. Dabholkar, Adv. for Respondent No.4.

Ms. Pallavi Shelke, Research Officer present.

**CORAM : B.R. GAVAI AND  
RIYAZ I. CHAGLA, JJ.**

**DATE : 12 JUNE 2017.**

**P.C.:-**

1. Rule. Rule made returnable forthwith. Heard by consent.
2. As per the order passed by this Court on 5th June 2017, Smt Pallavi Shelke is personally present in Court along with the record who has scrutinized the record with the assistance of learned AGP.
3. The Petitioner impugns the order dated 28th May 2010 vide

which the claim of the Petitioner for declaring her as Thakur-Scheduled Tribes came to be rejected.

4. During the pendency of the Petition, on the basis of interim orders passed by this Court, the Petitioner has already completed her M.B.B.S. Course and is pursuing her Post Graduate in Surgery.

5. The claim of the Petitioner has been rejected on the ground that the Petitioner has failed the affinity test.

6. Mr. Medadkar appearing on behalf of the Petitioner has addressed to us in length on merit, however, we do not find it necessary to go in to the matter, in as much as, the law is very well settled.

7. The Apex Court in the case of *Anand Vs. Committee for Scrutiny and Verification of Tribe Claims & Ors*<sup>1</sup> has held that in view of passage of long period insistence on affinity test is not warranted and more value has to be given to the pre-constitutional

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<sup>1</sup> (2012) 1 Supreme Court Cases 113.

documents.

8. Apart from that the Division Bench of this Court in the case of *Apoorva d/o. Vinay Nichale vs. Divisional Caste Certificate Scrutiny Committee & Ors.*<sup>2</sup> has held that if caste claim of the candidate has been held to be belonging to ST then the other close blood relatives cannot be denied the validity certificate.

9. In the present case by an elaborate judgment and order passed by this Court in Writ Petition No. 2282 of 1980 decided on 5th September 1980, the Division Bench of this Court has upheld the claim of the Petitioner's real Aunt belonging to Thakur – Scheduled Tribes. On the basis of the said judgment, the Petitioner's father has also been held to be belonging to Scheduled Tribes.

10. In that view of the matter, the impugned order dated 28th May 2010 is quashed and set aside. It is held and declared that the Petitioner belongs to Thakur – Scheduled Tribes, the Respondent committee is directed to issue validity certificate within a period of

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<sup>2</sup> 2010(6) Mh.L.J. 401.

two weeks from today.

11. Rule made absolute in terms of prayer clause with no order as to costs.

12. Civil Application is also disposed of.

**(RIYAZ I. CHAGLA J.)**

**( B.R. GAVAI J.)**