

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7020 OF 2015

Pushkar s/o Subhash Chavan
Age: 23 years, Occupation: Student,
R/o Bhagyajoti Apartment,
Row House No.5, D.G.R.-2,
I.T.I. Link Road,
Kamatwadishiwar, Nashik,
Tq. & District Nashik

.....Petitioner

V/s.

1 The State of Maharashtra
through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai-32.

2 The Scheduled Tribe Certificate
Scrutiny Committee, Nashik
Region, Nashik.

3 Savitribai Phule Pune University,
Ganesh Khind Road, Pune,
Through its Registrar.

4 The Principal,
M.E.T.'s Institute of Engineering,
Bhujbal Knowledge City,
Aadgaon, Nashik,
District: Nashik

.....Respondents

Mr. R.K.Mendadkar , Advocate for Petitioner.
Mr. C.P.Yadav , AGP for Respondent Nos.1 and 2-State.

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

DATE : 27th November, 2017.

P.C. :

1 **Rule.** Rule made returnable forthwith.

2 Heard the learned counsel for the Petitioner and
the learned AGP for the State by consent.

3 The Petitioner takes exception to the order dated
13.12.2012 passed by the Respondent No.2 invalidating the
caste certificate of the Petitioner as belonging to 'Thakur'
Scheduled Tribe.

4 The Petitioner was granted caste certificate by the
Competent Authority as belonging to 'Thakur' Scheduled Tribe
on 11.12.2001. Pending verification, he was admitted to the
first year engineering course. On 13.12.2012, the Respondent
No.2-Committee invalidated caste certificate of the Petitioner.

5 It appears that documentary evidence pressed into
service in support of his claim has been completely ignored by
the Committee and proceeded to decide the claim on the basis
of affinity test.

6 Mr. Mendadkar, the learned counsel for the
Petitioner, has brought to our notice finding recorded by the
Committee in paragraph 6.1 as to how the pre-constitutional

document was dealt with by the Caste Scrutiny Committee.

7 It is the matter of record that the Petitioner in support of his claim has relied on and produced school record of his grand-father which is at Page 34. It is the extract of school register no.1. It shows Shankar Mahipat Chavan, grand-father of the Petitioner was admitted in the school in 17.3.1934 and his caste has been recorded as 'Thakur'. Yet another document is at Page 31 duly verified by the Vigilance Committee. This document relates to school record of the Petitioner's father, grand-father, paternal uncle, cousin. It may be stated that the Petitioner's grand-father Shankar's school record was verified. Admittedly, this document is prior to 6.9.1950, a date on which the Constitution (Scheduled Tribe) Order, 1950 was issued and as such would have more probative value.

8 It appears that the Committee discarded this document on the ground that the reliance could not have been placed on this piece of evidence alone and, therefore, his claim was required to be tested by holding affinity test. It is settled law that pre-constitutional documents furnish high degree of probative value to the declaration of the status of the caste of the Petitioner. We, therefore, hold that the Respondent-

Committee fell in error in discarding this piece of evidence.

9 Genelogy placed on record by the Petitioner has not been disputed by the Committee. In the case of **Anand V/s. Committee for Scrutiny and Verification of Tribe Claims and Others**, reported in **2011(6) Maharashtra Law Journal 919**, wherein it was held that the affinity test may be used to corroborate the documentary evidence and should not be the sole criteria to reject the claim. It was held that, while dealing with the caste claim in respect of the documentary evidence greater reliance may be placed on pre-independence documents because it carries a higher decree of probative value to the declaration of status of caste as compared to post independence documents.

10 In the case in hand, the Committee has erroneously refused to consider school record of his grand-father and other relatives. Infact, this was the oldest one. Hence, document could not have been overlooked while appreciating the claim of the Petitioner.

11 In that view of the matter, we are of the considered view that the Petitioner has proved his claim that he belongs to 'Thakur' caste which is "Scheduled Tribe". That as such, we set aside the order dated 13.12.2012 and validate the

certificate of the Petitioner which shows his caste as 'Thakur' registered as "Scheduled Tribe" in the Constitution (Scheduled Tribes) Order, 1950. Hence, the following order:

I) The Petition is allowed. The impugned order dated 13.12.2012 is quashed and set aside.

II) It is held and declared that the Petitioner belongs to 'Thakur' Scheduled Tribe.

III) The Respondent No.2-The Scheduled Tribe Certificate Scrutiny Committee is directed to issue a Caste Validity Certificate to the Petitioner certifying that the Petitioner belongs to "Thakur Scheduled Tribe" within a period of four weeks from today.

IV) Needless to state that, all consequential actions to follow.

12 Rule made absolute accordingly.

(SANDEEP K. SHINDE, J)

(B.R.GAVAI, J)