

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.9806 OF 2014

Mayur Sunil Bagul ...Petitioner

Versus

The State of Maharashtra & Anr. ...Respondents

WITH

WRIT PETITION NO.10317 OF 2014

Sunil Hansraj Bagul ...Petitioner

Versus

The State of Maharashtra & Anr. ...Respondents

WITH

WRIT PETITION NO.10275 OF 2014

Utkarsha Sunil Bagul ...Petitioner

Versus

The State of Maharashtra & Anr. ...Respondents

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Mr. R.K. Mendadkar with Ms Priyanka N. Shaw for the Petitioners.
Mr. C.P. Yadav, AGP for the Respondent Nos.1 and 2 in
WP/9806/2014 and WP/10275/2014 and for Respondent
Nos.1 to 3 in WP/10317/2014.

CORAM : B.R. GAVAI &

SMT. ANUJA PRABHUDESSAI, JJ.

DATED : 4th OCTOBER, 2017.

P.C.:-

Rule. Rule is made returnable forthwith. Respondents
waive service. Heard by consent of parties.

2. Challenge in the order passed by the Member Secretary, Scheduled Tribe Certificate Scrutiny Committee, Nashik invalidating the claim of the Petitioners that they are belonging to Thakur Schedule Caste. The Petitioner- Sunil Hansraj Bagul in Writ Petition No.10317 of 2014 is the father of Mayur Sunil Bagul, who is Petitioner in Writ Petition No.9806 of 2014 and Utkarsha Sunil Bagul, who is the Petitioner in Writ Petition.10275 of 2014.

3. Heard Mr. Mendadkar, the learned counsel for the Petitioners and Mr. Yadav, the learned counsel for the Respondents.

4. Perusal of the impugned order reveals that order passed by the Scrutiny Committee rejected the claim of Petitioners by applying affinity test.

5. The Apex Court in case of *Anand Vs. Committee for Scrutiny and Verification of Tribe Claims and Ors. (2012) 1 SCC 113* has held that pre- Constitutional documents will have higher degree of probative value while considering the claim of the candidate. Perusal of the material placed on record reveals that the Petitioners have produced on record a document pertaining to Grand father- Hansraj Bagul, which is of the year 1939. The document shows the

caste of Hansaraj to be Thakur. His date of birth is 8.12.1930 and the date of admission in Zilla Parishad Primary School Vidyamandir, Virane to be 13.2.1939.

6. It is further to be noted that the Petitioners Sunil and one Mohit originally belonged to family of Malhari Khandu Bagul. Said Malhari had two sons viz. Sahadu and Mahadu. Mohit, who is great-great-grandson of Mahadu has already been held to be belonging to Thakur Schedule Caste by judgment of this Court in Writ Petition No.10992 of 2012 decided on 5th July, 2013. The Petitioner Sunil is a grandson of Sahadu i.e. other branch of Malhari Khandu Bagul. Taking into consideration this aspect of the matter, we find that the Petitioners are also entitled for a declaration that they belonged to Thakur Scheduled Caste. In the result, the Petition is allowed. The impugned orders are quashed and set aside. It is held and declared that the Petitioners are belonging to Thakur Scheduled Caste. The Respondent-Scrutiny Committee to issue validity certificate in favour of the Petitioners within a period of four weeks from today.

7. The Petitions stand disposed of.

(ANUJA PRABHUDESSAI, J.)

(B.R. GAVAI, J.)