

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10318 OF 2017

Vaibhav s/o Dattatray Thakar ... Petitioner

vs.

The State of Maharashtra and Others ... Respondents

Mr. Anil Golegaonkar a/w Mr. Madhur Golegaonkar, for the
Petitioner.

Mr. A.A. Kumbhkoni, Advocate General a/w. Mr. Akshay Shinde,
Special Counsel, Mr. Ashutosh Gavnekar, Special Counsel and Mr.
Sandeep Babar AGP, for the Respondent-State

**CORAM : SHANTANU KEMKAR &
G.S. KULKARNI, JJ.**

DATE : OCTOBER 05, 2017

P.C.:

1 By this petition filed under Article 226 of the
Constitution of India, the petitioner has challenged the order dated
31st August, 2017 passed by the second respondent- the Scheduled
Tribe Certificate Scrutiny Committee, Auranabad, whereby the
petitioner's claim for validation of his caste certificate 'Thakar-
Scheduled Tribe' has been rejected.

2 To substantiate his caste claim, the petitioner has submitted as many as 53 documents before the Committee. Out of the said various documents submitted by the petitioner for claiming himself to be of 'Thakar-Scheduled Tribe', the petitioner has filed validation certificates in respect of his father Dattatray Devidas Thakar, real sister Shital Dattatray Thakar and another real sister Manisha Dattatray Thakar. It appears that the Caste Scrutiny Committee in the impugned order has wrongly mentioned relationship in respect of the said certificates filed by the petitioner. In relation to the petitioner's father, caste validation certificate has been wrongly recorded by the Caste Scrutiny Committee as it relates to the petitioner's cousin uncle and in relation to two real sisters of the petitioner namely Shital Dattatray Thakar and Manisha Dattatray Thakar, the Caste Scrutiny Committee has been wrongly recorded as cousin sisters. It is pertinent to mention and not disputed by the learned AGP that the petitioner did not file the caste validity certificate of One Chandrakant Pandurang Suryawanshi and the said person is not cousin uncle of the petitioner, but the Committee has wrongly recorded that the said Chandrakant Pandurang Suryawanshi is the petitioner's uncle, of which the caste validity certificate has been filed by the petitioner.

3 The petitioner's documents were referred by the Committee to the vigilance cell for conducting enquiry. After getting the reports from the vigilance cell, the Committee rejected the petitioner's claim on the ground that in the documents of the petitioner's relatives collected during the vigilance enquiry, there is a mention of caste as "Hindu Thakar". The case of the petitioner is that in regard to the said documents, the petitioner had stated that the mention of 'Hindu' before 'Thakar' cannot be made a ground to reject the claim based on various caste validity certificates. In respect to the entry regarding 'Hindu Thakakar (ठाककर)' the petitioner said that the mention of one word "क" is a typographical error and that cannot be made a ground for rejection of the petitioner's claim. We have considered the submissions made by the learned counsel for the parties and we have also gone through the record produced before us.

4 In so far as the question in regard to the petitioner's caste validation certificate submitted by the petitioner, in our considered view and in view of the law laid down by the Division Bench of this Court in Apoorva Vinay Nichale v/s Divisional Caste Certificate Scrutiny Committee No.1 and others, reported in

2010(6) Mh.L.J. 401 which was based upon the Supreme Court judgment passed in the case of Raju Ramsing Vasave v/s Mahesh Deorao Bhivapurkar and others, reported in (2008) 9 SCC 54, in absence of any ground to discard, it was not open for the Committee to have discarded the certificates on the basis of the documents, which are totally unrelated to the petitioner. It is also not the case of the respondents that the validity certificates granted to the petitioner's father and other relatives were obtained by fraud or by misrepresentation or they were granted by the Committee having no jurisdiction.

5 We have gone through the impugned order and in our considered view, on the basis of mentioning of 'Hindu' before 'Thakar' in the caste column in respect to the relatives of the petitioner is of no consequence. Hindu is not a caste, but the religion. When the word 'Thakar' (ठाकर) has been specifically mentioned in the column regarding caste pertaining to the petitioner's relatives, the reasoning given by the Committee for discarding the various caste validity certificates submitted by the petitioner in respect to his father and other relatives is

unsustainable.

6 In the circumstances, in view of the law laid down by the Division Bench of this Court in Apoorva Vinay Nichale (supra), in our considered view, there was no justifiable reason for the Committee to have discarded three validity certificates of the petitioner's close relatives.

7 In the circumstances, we allow the petition and set aside the impugned order dated 31st August, 2017 passed by the second respondent- the Scheduled Tribe Certificate Scrutiny Committee, Auranabad. As a result, the respondent-Committee is directed to issue the caste validity certificate to the petitioner forthwith on receipt of authenticated copy of this order.

8 Needless to say that the impugned order though is in respect of the petitioner's cousin brother Onkar also but those order will not govern the case of Onkar and shall be applicable only in relation to the petitioner's relatives.

(G.S. KULKARNI, J.)

(SHANTANU KEMKAR, J.)