

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 14182 OF 2016**

Manikrao Namdeorao Shinde	}	Petitioner
versus		
State of Maharashtra and Ors.	}	Respondents

Mr. R. K. Mendadkar for the petitioner.

Ms. Sushma Bhende – AGP for respondent
nos. 1 to 3.

**CORAM :- S. C. DHARMADHIKARI &
B. P. COLABAWALLA, JJ.**

DATED :- JANUARY 19, 2017

P.C. :-

1. The petitioner has approached this court challenging the invalidation of his caste claim. The petitioner claims that he belongs to Thakar Scheduled Tribe.

2. The petitioner produced several documents and on an independent scrutiny and verification of his claim, based on the materials produced on record, the committee held as above. The petitioner's relatives have stated before different authorities that they belong to either Thakar Scheduled Tribe or Hindu Thakar Scheduled Tribe and as far as his real brother and cousin sister's records are concerned, in the school register pertaining to them, there is either cancellation or alteration in material columns.

Therefore, the entries therein cannot be said to be unequivocal establishing the claim of the petitioner. Thus, the materials and as produced by him were found to be inadequate and insufficient.

3. One of the findings rendered is that the petitioner resides at Inamgaon, Taluka Shirur, District Pune. The petitioner gave his address and that is how the Vigilance Cell reported that the people residing in this taluka cannot be said to be Thakar Scheduled Tribe. This Tribe is found predominantly in five districts, which includes Pune, but only its four Talukas, namely, Ambegaon, Junnar, Khed and Maval. The petitioner cannot be said to be belonging to the Scheduled Tribe (Thakar) because the village in which he resides falls in Shirur Taluka, which is not one of the talukas mentioned in para 11 of the impugned order.

4. During the course of arguments before us, we inquired from Mr. Mendadkar as to on what basis he is making a statement that the Hindu Thakar Scheduled Tribe is also found in Shirur Taluka and people residing in the villages in that taluka have been granted the caste validity certificates. That is how Mr. Mendadkar placed an additional affidavit on record. In this affidavit, in para 4, it is stated as under:-

“4. In this regard, I have to most respectfully state and submit that in my Shirur taluka of District Pune, there is only one village i.e. my village viz.

Inamgaon, Taluka Shirur, District Pune having 6 families in total and members of these 6 families are bare literate. They therefore, could not obtain caste validity certificate as belonging to Thakar, scheduled tribe. However, in nearby Talukas of Pune District adjacent to my Shirur taluka, several persons having surname "Shinde" have been granted caste validity certificate by the respondent no. 2 committee. Hereto annexed and marked as **Exhibit "A colly"** are the copies of caste validity certificates issued by the respondent no. 2 committee."

5. On the earlier occasion, on a copy of this affidavit being supplied, we granted time to Ms. Bhende to verify the correctness of these statements made in the affidavit. She would submit, on taking instructions, that the persons whose instances have been cited by the petitioner do not reside in Shirur Taluka, but nearby talukas of Pune District, which is also a very vague statement. Hence, on this ground, no fault can be found with the committee's findings. Additionally, she tendered an affidavit in reply and submitted that the petitioner is guilty of suppression of material and relevant facts. The petitioner, in one affidavit filed before the committee stated that no caste certificate issued to the relatives from the paternal side has been invalidated by the committee. Ms. Bhende submits that this is an incorrect statement, because the tribe claim of the petitioner's son Ravindra was invalidated on 16th July, 2009. This fact is extremely relevant but suppressed from the committee. Then, the committee was also informed that none of his blood relations have obtained any caste validity

certificate. This fact is also mentioned by the petitioner on his own. Therefore, for these reasons also the claim cannot be accepted.

6. We have perused the entire petition and all the annexures thereto, including the impugned order, the additional affidavit and the affidavit in reply.

7. It is too well settled to require any reiteration here that quasi judicial authorities or bodies created under the Maharashtra Act 23 of 2001 cannot attempt to assign additional reasons to support the final conclusion in their orders as are impugned in this writ petition. The reasons which are appearing in the speaking order are the one falling for our consideration and scrutiny. It is their legality, which is to be ascertained by us. If they are deficient and do not have the mandate or support of law, then, we cannot, rely on these additional reasons and brought before us on affidavit to uphold the conclusions of such authorities. That is an exercise totally impermissible in law. Therefore, we cannot, at this stage, rely on the affidavit in reply and particularly the statements in para 4 thereof.

8. We have also found from the committee's own order that it is not as if Thakar Scheduled Tribe is not to be found at all in Pune

District. At least four talukas of that District are named by the committee itself with reference to Pune District in para 11 of the impugned order. The petitioner purports to meet this finding of the committee and by urging that it is not a surname or middle name which could alone be decisive. Sometimes, there are common surnames and which are found in anthropological data. It is not as if a surname not ordinarily to be found in a particular community/tribe by itself would be a relevant factor to deny the validity certificate. In fact, the petitioner states that in nearby talukas of Pune District, several persons with surname "Shinde" have been granted caste validity certificate by the committee. Now, the instances of these persons and copies of the caste validity certificates are filed. Two certificates have been issued to those residing in Purandhar. We do not see how when Ambegaon, Junnar, Khed and Maval in Pune District are referred by the committee, in which Hindu Thakar Scheduled Tribe persons are ordinarily to be found, then, to ignore from consideration altogether these caste validity certificates issued to persons residing in Pune District but in different taluka would not be justified. The petitioner may be right or wrong completely in his reliance on these certificates, but surely, some co-relation is established now and prima facie by these validity certificates issued to persons in Pune District. Secondly, the Petitioner is

completely taken by surprise by the argument of Ms. Bhende on suppression of fact. The petitioner was not informed that the committee is going to reject the claim on the ground that his own son is not found to be belonging to Thakar Scheduled Tribe.

9. We are of the view that to ensure fairness in the quasi judicial proceedings, we should interfere in writ jurisdiction. We must also interfere for we find that an attempt is made to assign additional reasons to support the conclusion recorded in the impugned order. Therefore, supplying of additional reasons and at such stage would justify our interference in writ jurisdiction. We, accordingly, proceed to quash and set aside the impugned order.

10. We direct the committee to re-examine and re-verify the claim of the petitioner and by taking into consideration all materials including the statements made in the additional affidavit dated 12th January, 2017 filed in this court and the annexures thereto. Equally, the committee must put to the petitioner the case of rejection of the caste validity certificate to his son Ravindra. Before the committee relies upon such rejection, it must put it to the petitioner and seek an explanation from him as to how his caste claim can be validated when his own son was not found to be belonging to Hindu Thakar Scheduled

Tribe. We clarify that we have not expressed any opinion on the rival contentions as also on the genuineness and correctness of the documents filed by the petitioner.

11. The writ petition succeeds in the above terms. The committee should endeavor and complete the exercise as directed above as expeditiously as possible and within a period of three months from the date of receipt of a copy of this order.

(B.P.COLABAWALLA, J.) (S.C.DHARMADHIKARI, J.)