

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9008 OF 2018

Vedant Vilasrao Thakur .. **Petitioner**
Versus
The State of Maharashtra and others.. **Respondents**

Shri A. S. Golegaonkar, Advocate for the
Petitioner.

Shri P. S. Patil, Addl. G. P. for Respondent /
State.

Shri S. G. Karlekar, A.G.P. for Respondent No. 4.

CORAM: S. V. GANGAPURWALA &
SUNIL K. KOTWAL, JJ.

DATE: 3rd August, 2018

ORDER :

1. The caste claim of the petitioner as
'Thakur', Scheduled Tribe is invalidated.

2. Mr. Golegaonkar, the learned counsel submits
that the caste claim of the father of the
petitioner namely Vilasrao as 'Thakur', Scheduled
tribe is validated by the committee, so also, the
caste claim of the mother of the petitioner is
validated by the committee. The caste claim of
the real paternal uncle of the petitioner namely

Prakash is also validated by the committee. The caste claim of the another real uncle of the petitioner Datta as 'Thakur', Scheduled Tribe is also validated by the committee. The caste claim of three cousin uncles of the petitioner and one real paternal cousin grandfather as 'Thakur', Scheduled Tribe has been validated by the committee. The school record of the petitioner, his father, uncles, great grandfather, grandfather consistently records caste as 'Thakur'. Still the committee has invalidated the tribe claim of the petitioner. The affinity is not the litmus test. Considering the affinity and all these documentary evidence the validity certificates of 'Thakur', Scheduled Tribe are issued to the father, the mother, two real uncles of the petitioner, so also, of two cousin uncles and cousin grandfather. All these voluminous evidence has been ignored on the ground that Thakurs can be found in upper class also. The area restrictions has been removed.

3. The learned Additional Government Pleader submits that the petitioner comes from the place which was not a place of abode of 'Thakur', Scheduled Tribe persons. The petitioner could not succeed in affinity test also. The petitioners are taking undue advantage of their surname. The committee has rightly invalidated the tribe claim of the petitioner. The learned Additional Government Pleader submits that the committee is contemplating issuing show cause notices to the persons on whose validities the petitioner has relied.

4. It is a matter of record that the father of the petitioner Vilasrao S/o. Tulsiram is issued with the validity certificate of 'Thakur', Scheduled Tribe on 06.01.2011. Two real uncles of the petitioner namely Datta S/o. Tulsiram and Prakash S/o. Tulsiram are issued with the validity certificates of 'Thakur', Scheduled Tribe on 20.12.2010 and 04.01.2011 respectively. Four cousin paternal uncles of the petitioner namely

Dnyanoba, Nilesh, Nishant and Nagnath are issued with the validity certificates. The school record of all these persons, so also, the grandfather records caste as 'Thakur', Scheduled Tribe. No overwriting has been found by the vigilance.

5. The father, two real uncles and four cousin paternal uncles of the petitioner are issued with the validity certificates of 'Thakur', Scheduled Tribe. The show cause notices are being issued to them as to why the proceedings of issuing validities should not be reopened. In similar cases the Division Bench at the Principal Seat at Bombay in Writ Petition No. 7500 of 2018 with many other writ petitions has directed issuance of validity subject to the outcome of the proceedings that would be reopened of the validity holders relied by the petitioner. We follow the same course.

6. The committee shall issue validity certificate to the petitioner of 'Thakur',

Scheduled Tribe. The same would be subject to the decision the committee would take in the proceedings that are being reopened of the validity holders relied by the petitioner. The committee shall issue the said certificate to the petitioner immediately.

7. In case after reopening the proceedings the caste claim of the validity holders relied by the petitioner is invalidated the petitioner shall not be entitled to claim equity nor will be entitled to protect his admission.

8. Writ Petition accordingly allowed in above terms. No costs.

[SUNIL K. KOTWAL, J.] [S. V. GANGAPURWALA, J.]

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