

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

WRIT PETITION NO.5788 OF 2014

**Rekha Vasant Bhamare
@ Rekha Pundalik Wankhede**

..Petitioner

Versus

State of Maharashtra and others

..Respondents

**Mr. R. K. Mendadkar a/w Mr. C. K. Bhangoji, Ms. Komal Gaikwad and
Ms. Priyanka Shaw, Advocate for the Petitioner.**

Mr. Vikas Mali, AGP for Respondent Nos.1 and 2.

Mr. N. R. Bubna, Advocate for Respondent No.3.

CORAM : B. R. GAVAI &

SMT. BHARATI H. DANGRE, JJ.

DATE : 1st MARCH, 2018

PC.

1] The Petitioner has approached this Court being aggrieved by the order passed by the Scrutiny Committee dated 20th March 2014, thereby rejecting claim of the Petitioner as “Thakur, Scheduled Tribe”.

2] Though the Petitioner has placed on record pre-constitutional documents showing the Petitioner's forefathers belonging to Thakur, Scheduled Tribe and though the validity certificate in respect of Petitioner's real brother is placed on record, claim of the Petitioner is rejected. The reasoning given by the Scrutiny Committee are that though the pre-constitutional documents refer to caste Thakur, it is not written as Thakur, Scheduled Tribe, as such same cannot be taken into

consideration. In so far as the validity certificate granted in favour of the Petitioner's real brother is concerned, it is observed that each case has to be decided on facts of each case.

3] We find that the approach of the Scrutiny Committee is erroneous.

4] The Petition deserves to be allowed on following short grounds.

5] The Apex Court in the case of Anand V/s. Committee for Scrutiny of Tribe Claims and others reported in (2012) 1 SCC 113 has held that pre-constitutional documents would have more probative value. The school leaving certificate pertaining to the admission of the Petitioner's father would show that the Petitioner's father was admitted in School on 5th June 1942, the caste shown is as Hindu Thakur. Another document pertaining to the birth of the Petitioner's father's real brother would show that a son was born to Ananda i. e. grandfather of the Petitioner on 20th April 1935. In the said document also, the caste shown is as Thakur.

6] It could thus be seen that the pre-constitutional documents clearly specifies Petitioner's forefather's caste as Thakur. In so far as the

observation of the Scrutiny Committee that Thakur, Scheduled Tribe is not written, we find that the approach of the Committee with regard to the pre-constitutional document issued prior the year 1950, there was no question of Scheduled Tribe being written as suffix to Thakur.

7] Another ground, on which the Petition deserves to be allowed is that the Division bench of this Court in the case of Apoorva d/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee and others reported in 2010(6) Mh.L.J. 401 has held that if blood relatives of a candidate have been granted validity, the other blood relatives have to be granted validity. The Petitioner has placed on record the validity certificate granted in favour of the brother of the Petitioner Avinash Wankhede on 13th September 2000.

8] In that view of the matter, the Petition deserves to be allowed. The impugned order is quashed and set aside. It is held and declared that the Petitioner belongs to Thakur, Scheduled Tribe. The Caste Validity Certificate be issued to the Petitioner within four weeks from today.

[SMT. BHARATI H. DANGRE, J.]

[B. R. GAVAI, J.]