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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7012 OF 2014

Pratiksha Shankar Shinde
alias Mrs. Pratiksha Hemant Thakur .. Petitioner

Vs.
Scheduled Tribe Certification Scrutiny
Committee & anr. .. Respondents

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Mr. A.V. Anturkar, Senior Advocate I/by Ms. Kalyani Tulankar,
Advocate for the petitioner.
Ms. Kavita N. Solunke, AGP for respondents.
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**CORAM : B.R.GAVAI &
M.S. KARNIK, JJ.**

DATE : 5th SEPTEMBER , 2018

ORAL JUDGMENT (PER M.S.KARNIK, J.) :-

Rule. Rule made returnable forthwith.

2. Respondents waive service. Heard by consent of the parties.

3. By this petition filed under Article 226 of the Constitution of India, the petitioner seeks to challenge the order

dated 20-10-2012 / 27-05-2013 passed by respondent No.1 – Scheduled Tribe Certification Scrutiny Committee, Pune Region, Pune, invalidating the caste claim of the petitioner.

4. The Sub Divisional Officer, Bhore Sub Division, District – Pune, by a certificate dated 28/2/2001 issued caste certificate in favour of the petitioner as belonging to “Thakar”, Scheduled Tribes Community. The petitioner is working as a Full Time Lecturer at Waghere College, Saswad since 1st August, 2005. The post in question was reserved for Scheduled Tribe. The petitioner was removed from employment in the year 2011.

5. There is no dispute that the caste claim of the petitioner's real sister Prerna Shankar Shinde has been duly validated. The petitioner relied upon the pre-constitutional documents in respect of her ancestors in support of her caste claim. The Committee did not accept the said documents in support of the petitioner's caste claim for the reason that the documentary evidence produced by the petitioner shows caste entries as Thakar, Hindu Thakar. As regards the documents

obtained by Inquiry Officer in respect of the petitioner's paternal relatives from 1917 onwards the Committee observed that caste entries are recorded as Marahte, Marathi, Maratha Thakar, Thakar etc. and therefore, the documentary evidence is against the tribe claim of the petitioner.

6. We find that in respect of certain pre-constitutional documents obtained from the school records by the Inquiry Officer in respect of the petitioner's relatives from the paternal side viz. Yamunabai Vishwanath Thakar and Jamunabai Vishwanath Thakar being the aunts of the petitioner, the school record of 1938 shows the caste recorded as “Thakar”. However, respondent No. 1- Committee discarded these documents for the reasons mentioned herein before.

7. The Hon'ble Apex Court in the case of **Anand v/s. Committee for Scrutiny and Verification of Tribe Claims and others** reported in (2012) 1 SCC 113, has clearly laid down that while dealing with documentary evidence, greater reliance

may be placed on pre-Independence documents because they furnish a higher degree of probative value to the declaration of status of a caste, as compared to post-Independence documents. The Committee was therefore, in our view, not justified in discarding the pre-independence documents as they have higher probative value.

8. Undisputedly the caste claim of the petitioner's real sister, Prerna, was validated by the Scrutiny Committee by issuing caste validity certificate dated 22nd June, 2005. The family genealogy reveals that the real cousin brother of the petitioner viz. Vinod Vilas Shinde is issued with the certificate of validity dated 28th July, 2004 as belonging to the Thakar, Scheduled Tribe. This Court in the case of **Apoorva d/o Vinay Nichale v/s. Divisional Caste Certificate Scrutiny Committee No.1 and others** reported in **2010 (6) Mh.L.J. 401**, has held that when during the course of enquiry the candidate submits a caste validity certificate granted earlier certifying that a blood relation of the candidate belongs to the same caste as that

claimed by the applicant, the committee may grant such certificate without calling for Vigilance Cell Report. In the light of the fact that the petitioner's real sister Prerna and the petitioner's cousin brother Vinod are already issued with validity certificates validating their caste claims, respondent No.1-Committee ought to have issued the caste validity certificate in favour of the petitioner. In view of the law laid down by this Court in the case of **Apoorva d/o Vinay Nichale** (supra), we are of the view that the petition must succeed. Accordingly, the Rule is made absolute. Hence the following order :

ORDER

1. The impugned order is quashed and set aside.
2. It is declared that the petitioner is belonging to Thakar, Scheduled Tribe.
3. The respondent - Committee is directed to issue caste claim certificate to them within 2 weeks from today.

(M.S. KARNIK, J.)

(B.R.GAVAI, J.)