

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6875 OF 2015
WITH
CIVIL APPLICATION NO. 712 OF 2017

Waman Chandrakant Thakur	.. Petitioner
Vs.	
State of Maharashtra and ors.	.. Respondents

Mr.Sushant Yearamwar, for the Petitioner.
Mr.V.M. Mali, AGP for Respondent – State.
Ms.Priyanka Shaw, for Respondent No.4.

CORAM : B.R.GAVAI &
M.S.KARNIK, JJ.
DATE : 08th OCTOBER, 2018

ORAL JUDGMENT (PER B.R.GAVAI, J.) :

. Rule. Rule is made returnable forthwith. Heard by consent.

2. The Petitioner has approached this Court being aggrieved by the rejection of the claim of the Petitioner belonging to the Thakar Scheduled Tribe.

3. Perusal of the impugned order would reveal that the claim of the Petitioner is rejected on the ground that the Thakars from Sindhudurga District before Removal of Area Restriction Act of 1976 have obtained a caste certificate as belonging to Nomadic Tribe.

4. We find that the view taken by the members of the Committee is totally unsustainable. The Division Bench of this Court in which one of us was the Member (Coram : B.R.Gavai & Smt.Bharati H. Dangre JJ.) vide judgment and order dated 16/04/2008 in Writ Petition 1158 of 2018 has considered the issue. The Division Bench observed that on account of an erroneous circular of Government of Maharashtra, Thakars of Sindhudurga area had obtained the certificate as belonging to Nomadic tribe. The Division Bench has also referred to the earlier Judgment of this Court in Writ Petition No. 6048 of 2004.

5. The Hon'ble Apex Court in the case of **Anand Vs.**

Committee for Scrutiny and Verification of Tribe Claims and
ors., reported in 2012(1) S.C.C.113 has held that the pre-constitutional document will have to be given more weightage. In the present case, the Petitioner has placed on record the document of his grandfather namely Sajge Dhondu Ghuro of the year 1916 which shows his caste to be Thakar. The same has been verified by the Vigilance Cell of the Scrutiny Committee. Not only that but the Vigilance Cell has also found that the Petitioner has also passed the affinity test.

6. In this view of the matter, we find Petitioner's claim is sustainable.

7. The impugned order dated 29/05/2015 is quashed and set aside.

8. It is declared that the Petitioner belongs to the Thakar Scheduled Tribe.

9. The Scrutiny Committee to issue validity certificate to the Petitioner within a period of 2 weeks from today.

10. Needless to state that all consequential benefits shall follow.

11. In view of the disposal of the Writ Petition, Civil Application No. 712 of 2017 does not survive and the same also stands disposed of.

12. Rule is made absolute in the above terms.

(M.S.KARNIK, J.)

(B.R.GAVAI, J.)