

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.6809 OF 2018

Sonakshi Rajendra Salunke,
Minor through her father and
Natural guardian Rajendra Narayan
Salunke, resident of 8/145, Maghwadi
Police Vasahat, Income Tax Colony,
Jogeshwari (East), Mumbai 400 060.

.... Petitioner

Versus

1. State of Maharashtra
through its Secretary, Tribal
Development Department,
mantralaya, Mumbai-400032.
2. Scheduled Tribe Certificate
Scrutiny Committee, Konkan
Division, Thane through its
Member Secretary, having its
Office at Vartak Nagar Ward
Committee office, Vedant
Complex, Opposite Kores Co.,
Vartak Nagar, Wagale Estate,
Thane (W), Dist. Thane.
3. Commissioner and Competent
Authority, State CET Cell,
Mumbai having its office at
1st floor, New Excelsior Building
A.K. Nayak Marg, Fort,
Mumbai-400 001.
4. Additional District Deputy
Collector, Mumbai Suburban
District, Andheri, Mumbai.

... Respondents.

Mr. R.K. Mendadkar with Mr. C.K. Bhangoji,
Mr. Tanaji Jadhav & Ms Priyanka Shaw for the
Petitioner.
Mr. S.B. Kalel, Asstt. Government Pleader, for the
Respondents.

CORAM: S.C. DHARMADHIKARI &
SMT. BHARATI H. DANGRE, JJ.

DATE : JUNE 26, 2018

ORAL JUDGMENT (Per Shri S.C. DHARMADHIKARI, J.):

Not on board. Taken up on production board on
request and urgency.

2. In this case as well the order of the Scrutiny
Committee, dated 20-6-2018, is challenged. That invalidates the
Caste Certificate of the petitioner issued by the Competent
Authority certifying her as belonging to Thakur Scheduled Tribe.

3. **Rule.** The respondents waive service. The writ
petition is taken up for hearing forthwith.

4. The Caste Certificate, dated 4-6-2004, issued by

respondent No.4, was forwarded to this Competent Scrutiny Committee so as to verify and scrutinize the petitioner's claim of belonging to Thakur Scheduled Tribe.

5. In support of the claim, the petitioner, inter alia, relied on the Certificate of Validity granted to her father Rajendra Narayan Salunke. This Certificate of Validity was granted on 9-6-2011. Further, the petitioner's real aunt Archana Narayan Salunke was also issued a similar Certificate of Validity by the Aurangabad Committee on 13-9-2011. If these two Certificates' validity had to be ignored, then, the Committee was expected to arrive at a clear finding of fraud or misrepresentation which would enable it to completely ignore the Certificates of Validity issued to the blood relatives. The reasoning of the Committee in that regard is extremely strange. It says that the Police Vigilance Cell brought the records of the petitioner's cousin grandfathers which reveal their caste as Maratha. These records are of the oldest period. What does the Committee means by the oldest period is not clarified at all. If that means Pre-Constitutional or Pre-Presidential document,

then while granting the Certificate of Validity to the father of the petitioner these documents were very much available. If the petitioner's father was granted a Certificate of Validity, which endorses his claim as belonging to Thakur Scheduled Tribe and that order is relied and applied in the case of the petitioner's aunt, then, how these oldest documents would destroy the credibility and evidentiary value of these two Certificates of Validity has not been clarified even during the course of arguments, today. The Committee's reasoning based on the earlier Judgments of this Court and that of the Hon'ble Supreme Court of India belie the fact that the petitioner does not have to establish anything beyond her claim of being a Thakur Scheduled Tribe, listed at Serial No.44 of the Presidential Notification. In the given circumstances, if the petitioner's father's Certificate is to be discarded, then proof of fraud or misrepresentation ought to be on record. In the absence thereof, some general observations and vague findings do not enable the Committee to discard the same. Precisely on these lines similar orders of this Committee have been set aside by this Court and

time and again. For instance, we refer to a Judgment of this Court, relied upon by Mr. Mendadkar in the case of **Motilal S/o Namdeo Pawar Vs. Scheduled Tribe Certificate Scrutiny Committee, Nashik & Others**, decided on 22-12-2017 {Civil Writ Petition No.7 of 2014}. Following the said reasoning and finding and the impugned order being vitiated by total non-application of mind and perversity, we quash and set aside the same. The writ petition is allowed. Rule is made absolute in terms of prayer clauses (a) and (b). The petitioner shall be considered as eligible for admission against a reserved seat and particularly a seat reserved for the Scheduled Tribe. The Certificate of Validity be issued following our directions by tomorrow (27-6-2018).

(SMT. BHARATI H. DANGRE, J.)

(S.C. DHARMADHIKARI, J.)