

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.197 OF 2019

Aaryan S/o. Rajesh Thakur,
Age-Minor, Occu-Student,
Through Natural Guardian Father,
Viz, Rajesh S/o. Shivaji Thakur,
Age-40 years, Occu-Service,
R/o. 176, Sukhsagar Society,
Rajnagar, Near Kendriya Vidyalaya,
Dhule, Tq. & Dist. Dhule

...PETITIONER

VERSUS

1. The State of Maharashtra
Department of Tribal Development,
Mantralaya, Mumbai-32,
Through its Secretary
2. The Scheduled Tribe Certificate Scrutiny,
Committee, Nandurbar Division, Nandurbar,
Through its Member Secretary
3. The Sub-Divisional Officer,
Dhule Division, Dhule
Dist. Dhule

...RESPONDENTS

Mr.Sushant c. Yeramwar, Advocate for the petitioner
Mrs.R.P.Gaur, AGP for the respondents/State

**CORAM : PRASANNA B. VARALE &
S.M.GAVHANE, JJ.**

DATED : 26.02.2019

J U D G M E N T [PER: PRASANNA B. VARALE, J.]

. Rule. Rule made returnable forthwith. Heard finally with the consent of the parties.

2. Heard learned counsel for the petitioners.

3. The petitioner is a minor student approaching this Court through his natural guardian i.e. father challenging the order passed by the Scrutiny Committee dated 05.12.2018 whereby application filed by the petitioner challenging the order of the Sub-Divisional Officer rejected the application for issuance of tribe certificate towards Thakur Scheduled Tribe. The application is rejected by the Committee confirming the order of the Sub-Divisional Officer dated 19.05.2015. Learned counsel for the petitioner invited our attention to the documents placed on record to submit that the petitioner submitted sufficient material including the oldest revenue entries in support of the claim. The Sub-Divisional Officer mechanically rejected the application and the Committee insisting on unsustainable grounds rejected the application and confirmed the order passed by the Sub-Divisional Officer, Dhule. Learned counsel by inviting our attention to the order of this Court dated 15.02.2019 in two writ petition Nos.2130/2019 and

2255/2019 submitted that in identical circumstances this Court was pleased to allow the petition. Learned counsel also invited our attention to the order of the Hon'ble Apex Court dated 08.03.2017 placed on record at Exh.M. Perusal of the order passed by the Scrutiny Committee shows that on two grounds the application is rejected. Firstly, heavy reliance is placed in the order to submit that there is sufficient material submitted by the petitioner to show that the petitioner is resident of a particular area or shifted to a particular area and secondly, the documents namely entry in the admission register in respect of the cousin great grand father of the petitioner show that the great grand father was admitted in the school in the year 1919 and stated before the school authority that he is ready to pay cess amount. The Committee on this material has drawn a conclusion that the fore fathers of the petitioner were well educated and financially sound in the year 1919 to 1932.

4. In so far as the grounds raised by the Committee of the area restriction is concerned the learned counsel for the petitioner was justified in submitting that this reason is clearly unsustainable in view of the Apex Court's order dated 08.03.2017. We also find considerable merit in the submission of the learned counsel for the

petitioner that the another reason raised by the committee is also unsustainable for the reason the Committee is referring to an exceptional case to arrive at a conclusion that fore fathers of the petitioner were so financially sound that they are not entitled for the benefits to be claimed as a candidate belonging to scheduled tribe category. There is also considerable merit in the submission of the learned counsel as the tenor of this observations of the Committee clearly shows that merely because some great grand fathers of the petitioner was admitted in the school in the year 1919 and expressed willingness to pay cess, the Committee jumped to the conclusion that fore fathers of the petitioner were financially sound. We also see no reason to take other view than view adopted by us in the order dated 15.02.2019.

5. Accordingly, the writ petition is allowed in terms of prayer clauses B & C and disposed of.

6. Rule made absolute in above terms.

[S.M.GAVHANE, J.]

[PRASANNA B. VARALE, J.]