

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5840 OF 2019

SUBHAM SANTHOSH BAGUL
VERSUS
STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Petitioner : Mr. Deshmukh Mahesh S.
AGP for Respondents : Mr. S. P. Tiwari

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CORAM: S. V. GANGAPURWALA &
AVINASH G. GHAROTE, JJ.

DATE: 04th NOVEMBER, 2019

PER COURT:

1. The caste claim of the petitioner as Thakur, Scheduled Tribe is invalidated.

2. Mr. Deshmukh, learned counsel for the petitioner submits that the real uncle's son of the petitioner namely Pramod Namdev Thakur is issued with the validity certificate of Thakur, Scheduled Tribe. The father of the petitioner is also issued with the validity certificate of Thakur, Scheduled Tribe. The learned counsel submits that the only ground for negating the claim of the petitioner is that the father of the petitioner did not pass the affinity test, however

that was not the reasoning given while granting validity to the real uncle's son namely Pramod. According to the learned counsel, the pre-constitutional document i.e. school record of the grandfather of the petitioner records caste as Thakur. The learned counsel submits that the affinity test is not the litmus test. There are no contra evidence on record.

3. The learned Assistant Government Pleader submits that the father of the petitioner could not prove the affinity test. The surname of the second cousin of the petitioner is recorded as *Bramhabhat* which would show that the family of the petitioner does not belong to Thakur, Scheduled Tribe. According to the learned A.G.P., as the petitioner has not proved the affinity test and so also his father, the committee has rightly negatived the claim.

4. The relationship is not disputed. Pramod is the real uncle's son of the petitioner. He has been issued with the validity certificate. The father

of the petitioner is also issued with the validity certificate.

5. The documents on record relied by the petitioner including pre-constitutional documents records caste as Thakur. The same can be referred to as under -

अ. क्र.	नाव	उमेदवारांशी नाते	उपलब्ध पुरावा	पुराव्यात नमूद जात	पुराव्याचे वर्ष	शेरा
१	संतोष रतन बागुल	वडील	न. पा. शाळा क्र. ५ भुसावळ ता. भुसावळ, जि. जळगाव	हिंदू इ.मा.	३०.०६.१९७५	--
२	नामदेव रतन बागुल	काका	न्यू इंग्लिश स्कूल, भुसावळ ता. भुसावळ, जि. जळगाव	ठाकूर	१६.०६.१९५६	-
३	प्रमोद नामदेव ठाकूर	चुलत भाऊ	शालेय जनरल रजिष्टर नं १ चा उतारा	हिंदू ठाकूर	१७.०६.१९७६	
४	रतन नथू बागुल	आजोबा	जि. प. केंद्रीय प्राथ.शाळा अडावद ता. चोपडा, जि. जळगाव	हिंदू ठाकूर	१७.०६.१९२४	फी देणार
५	रघुनाथ दौलत ब्रह्मभाट	चुलत चुलत भाऊ	शाळा प्रवेश निर्गम उतारा जि. प. केंद्रीय प्राथ. शाळा अडावद ता. चोपडा, जि. जळगाव	हिंदू ठाकूर	२१.०६.१९५७	सदर पुरावे अर्पिता ठाकूर यांच्या नस्तीमधून घेतलेले आहेत. अर्जदाराचे कुटुंब मूळचे लोणी अडावद, ता. चोपडा, जि.
६	रंगनाथ दौलत ब्रह्मभाट	चुलत चुलत भाऊ	शाळा प्रवेश निर्गम उतारा जि. प. केंद्रीय प्राथ. शाळा अडावद ता. चोपडा, जि. जळगाव	हिंदू ठाकूर	२२.०६.१९५७	जळगांव येथील असून बागुल कुळातील रक्तनातेवाईक म्हणजे चुलत चुलत भाऊ असल्याचे दि. ३०.१०.२०१८ चे सुनावणीत अर्जदाराने सांगितले
७	जगदीश रघुनाथ साळुंके	अर्जदाराचे मामेभाऊ	शाळा प्रवेश निर्गम उतारा	हिंदू ठाकूर इ.मा.	१३.०६.१९७८	पुरावा स्वयंस्पष्ट आहे

All the documents recorded above shows the caste recorded as Thakur.

6. Considering the aforesaid documents and the validity issued to the father of the petitioner and the son of the real uncle of the petitioner, the impugned order is quashed and set aside. The committee shall issue validity certificate to the petitioner of Thakur, Scheduled Tribe.

7. Writ Petition is accordingly allowed. No costs.

[AVINASH G. GHAROTE, J.] [S. V. GANGAPURWALA, J.]

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