

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

**65 WRIT PETITION NO.13011 OF 2018
WITH CA/7390/2019 IN WP/13011/2018**

SHRIKANT CHANDRAKANT THAKUR THROUGH FATHER
CHANDRAKANT KONDIBA THAKUR ..PETITIONER

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS ..RESPONDENTS

...

Mr. Madhur A. Golegaonkar, Advocate for the
Petitioner.

Mr. P. S. Patil, AGP for Respondents-State.

...

**CORAM : S. V. GANGAPURWALA &
MANGESH S. PATIL, JJ.**

DATED : 9th JULY, 2019.

PER COURT:-

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

2. Mr. Golegaonkar, learned counsel submits
that the father of the petitioner and real brother
of the petitioner have been issued with the
validity certificate. According to the learned
counsel, the petitioner relied on the documents
which records caste as 'Thakur'. The committee has
relied upon the some documents of persons claiming
to be the distant relative of the petitioner. The
same is incorrect. The affinity test is not a
litmus test. The learned counsel submits that

there was no contra evidence on record to refuse the validity to the petitioner.

3. According to the learned A.G.P. the father of the petitioner is issued with validity on the basis of the validity issued to one Jagdish who is from the branch of Govind and in the genealogy signed by the father of the petitioner he has represented that Govind has no son. The learned A.G.P. further submits that in the statement the petitioner has admitted that their avocation was to perform Pooja that necessarily is job of Bhat, meaning thereby that the petitioner could not belong to Thakur, Scheduled Tribe. Even, the petitioner does not come from the geographical area where the Thakur used to reside. The learned A.G.P. further submits that the father and real brother of the petitioner are issued with the show cause notice as to why their proceedings should not be reopened.

4. It is submitted that the petitioner had appeared for NEET and is aspiring for admission in profession course.

5. No doubt, the father and real brother of the petitioner have been issued with the validity certificate. It also appears from the submissions of the learned A.G.P. that the show cause notice is also issued to them as to why their proceedings

should not be reopened on the ground that there was suppression.

6. While granting validity to the father of the petitioner, it appears that the reliance was placed on the validity of one Jagadish. During the vigilance the genealogy is shown to have been given by the father of the petitioner wherein it shows that Govind has no son and Jagadish is from the branch of Govind. It is the contention of the petitioner that the petitioner was not given the copy of the same nor any opportunity was given to reply the said documents and that the petitioner could not give any explanation.

7. Be that as it may, as now it is matter of record and that the petitioner was not given any opportunity to explain the said documents, it will be appropriate to grant opportunity to the petitioner to explain about the said documents before the Committee.

8. The impugned order is set aside and the matter is remitted back to the Committee. The Committee shall give opportunity to the petitioner to file his say to the said documents. The Committee shall take decision upon the validation proceedings of the petitioner on or before 16.07.2019. The petitioner shall appear before the Committee on 10.07.2019. The Committee shall

supply the copy of the genealogy and other documents to the petitioner immediately.

9. Writ Petition is disposed of. No costs.

10. In view of the disposal of writ petition, present civil application stands disposed of.

11. Parties to act on authenticate copy.

(MANGESH S. PATIL)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

Devendra/July-19