

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

1006 WRIT PETITION NO.5820 OF 2019

MAYURI PANDIT DHONE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Mr. M.A.Golegaonkar & Mr. A.S.Golegaonkar, Advocate for
Petitioner.
Mr. P.S.Patil, AGP for Respondents-State.

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

DATE : 19.07.2019

PER COURT :-

1. The caste claim of the petitioner as 'Thakar' Scheduled Tribe is invalidated.
2. Mr. Golegaonkar, the learned counsel for the petitioner submits that the father of the petitioner is issued with the validity certificate of 'Thakar' Scheduled Tribe. There are eight validities in the family of the petitioner. The paternal cousins are also issued with the validity certificate of Thakar Scheduled Tribe. The learned counsel submits that the document of the cousin grandfather of the petitioner namely Mahadeo i.e. the school record of 28/12/1354 Fasli (1944)

records caste as 'Thakar'. The mortgage deed in favour of the great grandfather of the petitioner dated 28.05.1917 records his caste as 'Thakar'. The learned counsel submits that there is only one isolated contra entry of the school record of grandfather of 'Maratha', else all the entries are of 'Thakar'.

3. Mr. Patil, the learned AGP submits that in the village where the petitioner and his forefathers were residing, the caste of all villagers were reported as 'Maratha' or 'Maratha Thakar'. The school entry of 1944 of the cousin grandfather of the petitioner does not record caste as 'Thakar' Scheduled Tribe. The learned AGP further submits that in case of the grandfather and cousin grandfather of the petitioner in the school record, caste is recorded as 'Maratha'. The same has been considered by the Committee. The petitioner also failed in the affinity test.

4. From of the submissions, the relationship does not appear to be matter of debate. The father of the petitioner and about 6 to 7 paternal cousins of the petitioner are issued validity certificates of 'Thakar' Scheduled Tribe. The vigilance has also examined the original record of the cousin grandfather of the petitioner Mahadeo Tulshiram of the year 1944. The vigilance has also found the caste recorded in the

original record as 'Thakar'. No interpolation has been found. The mortgage deed of the year 1917 in favour of the great grandfather of the petitioner records his caste as 'Thakar'.

5. Naturally, the old entries would have more probative value. Of course there is isolated entry of 'Maratha' in school record of the grandfather. However, in case of cousin grandfather, which is the earlier record, it records caste as 'Thakar'. Considering that the father is also issued with the validity certificate, paternal cousins are also issued with the validity certificate and the old record of the great grandfather and cousin grandfather records caste as 'Thakar' in the school record. So also considering the mortgage deed of the year 1917 recording the caste of great grandfather as 'Thakar', we are inclined to direct the Committee to grant validity certificate to the petitioner of 'Thakar' Scheduled Tribe, however, subject to the decision that would be taken by the Committee in case father's validation proceedings are re-opened.

6. In the result, we pass the following order :

ORDER

(i) The impugned order is quashed and set aside.

(ii) The Committee shall issue validity certificate of 'Thakar' Scheduled Tribe to the petitioner immediately.

(iii) The said validity certificate shall be subject to the decision that would be taken by the Committee, in case the validation proceeding in respect of the father of the petitioner is re-opened.

7. The Writ Petition is disposed of. No costs.

(MANGESH S. PATIL, J.)

(S.V. GANGAPURWALA, J.)

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vmk/-