

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8739 OF 2019

SHRUTI BHAGWAN GARUD AND ANOTHER
VERSUS
STATE COMMON ENTRANCE TEST CELL AND OTHERS

...

Advocate for Petitioners : Mr. Phatale Sagar S.
AGP for Respondents : Mr. P. S. Patil

...

WRIT PETITION NO.8761 OF 2019

SUKHADA MANOJ GARUD
VERSUS
STATE COMMON ENTRANCE TEST CELL AND OTHERS

...

Advocate for Petitioner : Mr. Phatale Sagar S.
AGP for Respondents : Mr. P. S. Patil

...

CORAM: S. V. GANGAPURWALA &
MANGESH S. PATIL, J.

DATE: 18th JULY, 2019

PER COURT:

1. Both these writ petitions belong to the members of the same family. The facts are taken from Writ Petition No. 8739 of 2019.

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

counsel submits that there are as many as eighteen validity certificates issued in the family of the petitioner. According to the learned counsel, the real paternal uncles sons are issued with the validity certificates, so also numerous validity certificates are issued to the cousin paternal uncles of the petitioner. The learned counsel submits that Nivrutti Tukaram the son of the cousin uncle of the petitioner is issued with the validity certificate under the order of this Court in Writ Petition No. 502 of 1994 dated March 1, 1994. This Court had considered the documents and the relationship while directing the authority to issue the validity certificate to Nivrutti Tukaram. According to the learned counsel, there are no contra documents on record still the committee has invalidated the claim solely on the ground that the caste claim of one paternal aunt namely Vidya Ramkrushna Garud was invalidated by the committee in the year- 2012. The petitioner has not suppressed the said fact and has brought

it to the notice of the committee.

3. Mr. Patil, the learned Additional Government Pleader submits that though there are many validity certificates issued with the family members of the petitioner still for the first time in the case of paternal aunt of the petitioner Vidya the committee had considered all the documents threadbare and thereafter had invalidated the same. The earlier validity certificates may not be of much avail to the petitioner. Even the judgment of this Court would not be of any assistance as at the relevant time the vigilance was not conducted and the Court relied on the documents of the maternal side also.

4. The learned A.G.P. further submits that in case of cousin grandfather the record of the year 1958 - 1960 records caste as Hindu and not as Thakur. The petitioner is also failed in the affinity test.

5. We have considered the submissions canvassed

by the learned counsel for respective parties.

6. There are no contra entries in the documents on record of the petitioner, his father, his uncle, grandfather caste is recorded as Thakur. The school record of the grandfather of the petitioner is of the year 1951 which also records caste as Thakur. The another document of the grandfather of the petitioner of the year 1954 also records caste as Thakur.

7. This Court in case of Nivrutti Tukaram Garud has considered the documents and thereafter has delivered the judgment on March 1, 1994 in Writ Petition No. 502 of 1994 and directed the authority to issue validity certificate to him. The relationship is not disputed.

8. In view of the aforesaid facts, the impugned order is quashed and set aside. The respondent / committee shall issue validity certificate to the petitioners of Thakur, Scheduled Tribe immediately. The same shall be subject to the

decision that may be taken by the committee in case the validation proceedings in respect of the validity holders relied by the petitioners are reopened.

9. Writ Petitions are accordingly disposed of.
No costs.

[MANGESH S. PATIL, J.] [S. V. GANGAPURWALA, J.]

marathe