

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

1023 WRIT PETITION NO.8833 OF 2019

**TANUSHRI SANJAY THAKUR AND ANOTHER THROUGH SANJAY
MANSING THAKUR
VERSUS
DIRECTOR OF MEDICAL EDUCATION AND RESEARCH CET CELL
AND OTHERS**

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**Advocate for Petitioners : Deshmukh Mahesh S.
AGP for Respondents: S.B.Yawalkar
Advocate for Respondents : Narwadkar Mrigesh D. For R/2**

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

DATE : 02/08/2019

PER COURT :

The tribe claim of the petitioner as Thakur (Scheduled Tribe) is invalidated.

2] Mr. Deshmukh, the learned counsel for petitioners submits that the real grand father of the petitioners Mansing is declared as Thakur (S.T.) by the Commissioner who at the relevant time was the competent authority. The real paternal aunt of the petitioner Smt.Varsha daughter of Mansing is issued with the validity certificate by the committee. The learned advocate submits that birth extract dated 21/11/1916 of the great grand father of the petitioner records caste as Thakur. The learned advocate further submits that another document of the year 1918 i.e. Namuna no.1 in the name of Jamsing records caste as Thakur. The school record dated 5/3/1952 of the

grand father of the petitioner Mansing records caste as Thakur. He further submits that consistent pre-independence record pertaining to the ancestors of the petitioners records caste as Thakur. The pre-independence documents will have more probative value. According to the learned counsel, records of Bhat and/or Bramha Bhat observed by the respondent is not in respect of paternal relatives of the petitioners. The petitioners have denied relationship of these persons. Considering the consistent pre-independence record and the validities issued to the grand father and the real paternal aunt of the petitioners, petitioners be issued the validity certificate of Thakur (S.T.).

3] Mr.Patil, learned Addl.G.P. submits that it has been established that the school record of paternal cousins of the petitioners of the year 1928 to 1933 namely Udaysing Narayansing and Devising Narayansing record caste as Bramha Bhat. The petitioners are deliberately denying the relationship with these persons. However, from the file of Sarla the said relationship is established. The same is as per genealogy submitted by Sarla in her validation proceeding. In view of the contra entries appearing on record, the affinity test becomes significant and the petitioner has failed in the affinity test. According to the learned counsel even claim of Sarla has been invalidated. The learned Addl.G.P. further submits that the committee has considered all these aspects and has rightly invalidated the caste claim.

4] It is not disputed that grand father of the petitioners Mansing is declared as belonging to Thakur (S.T.) by the Commissioner in the year 1992 who at the relevant time was competent authority. It is also matter of record that the real paternal uncle of the petitioners

Varsha has been issued with the validity certificate by the committee. The committee has not found the entries of 1916, 1918, 1920 in the name of the great grand father and the cousin great grand fathers of the petitioners recorded as Thakur being suspicious. The relationship with Devising and Udaysing is disputed by the petitioners. In the school record of Devising the caste is recorded as Bramha Bhat and Udaysing the caste is recorded as Hindu Bhat. In case of Jatesing also the caste is recorded as Bramha Bhat. These are documents of the years 1925 and 1930. The relationship of the petitioners with Jansing and Ramsing is not disputed. Their records of the years 1916, 1918 and 1920 record caste as Thakur. Whereas the relationship of the petitioners with that of Devising, Udaysing, Jatesing is not conclusively established. Atleast the same has not been very clearly dealt with.

5] Considering the fact that the real grand father of the petitioners is declared to be belonging to Thakur (S.T.) and the paternal aunt is issued with validity certificate of Thakur (S.T.) by the committee, we pass the following order :

[I] The impugned order of the committee is quashed and set aside.

[II] The committee shall issue validity certificate to the petitioners of Thakur (S.T.) immediately.

[III] The said certificate shall be subject to the decision that may be taken by the committee in respect of validity holders on which the petitioners rely if their cases are reopened. This order is restricted to the extent of the petitioners.

6] Writ Petition is disposed of. No costs.

(MANGESH S. PATIL,J.)

(S.V.GANGAPURWALA,J.)

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