

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.4652 OF 2015**

Geeta Namdev Thakar,]
Aged 30 years, residing at]
At Post. Pinguli, Gudhipur,]
Tal. Kudal, Dist. Sindhudurga]..Petitioner

Versus

- 1] State of Maharashtra,]
Through its Secretary,]
Tribal Development Department,]
Mantralaya, Mumbai-32.]
- 2] Scheduled Tribe Certificate Scrutiny Committee,]
Konkan Division, Thane,]
Through its Member Secretary,]
having its office at Vartak Nagar,]
Ward Committee Office,]
Vedant Complex, Opposite Kores Co.,]
Vartak Nagar, Thane (W),]
District. Thane.]
- 3] Chief Executive Officer,]
Zilla Parishad, Sindhudurg,]
Dist. Sindhudurg.]
- 4] Headmaster,]
Zilla Parishad Primary School,]
Tal. Malvan, Dist. Sindhudurg.]..Respondents

Mr. R. K. Mendadkar, Advocate for the Petitioner.
Mr. S. B. Kalel, AGP for Respondent Nos.1 & 2.

**CORAM : B. R. GAVAI &
SANDEEP K. SHINDE, JJ.
DATE : 11th MARCH, 2019**

ORAL JUDGMENT (Per B. R. Gavai, J)

1] Rule. Rule made returnable forthwith. Heard finally by consent of the parties.

2] The Petitioner challenges the order dated 31st December 2012 passed by the Respondent No.2 – Scrutiny Committee, vide which the Petitioner's claim for belonging to “Thakar” Scheduled Tribe has been rejected.

3] The Petitioner's claim is basically rejected on the ground that though the pre-constitutional documents pertaining to the Petitioner's ancestors show their tribe to be Thakar, however, it has not written as Scheduled Tribe. We have perused the material placed on record. The Petitioner has filed on record a school leaving certificate of her grandfather, namely Shankar Dhondu Thakar. The date of admission in the school is shown to be 8th February 1927. The date of birth of the said Shankar Dhondu Thakar is 1st September 1920. His caste has been shown as Hindu Thakar. It could thus be seen that the pre-constitutional document clearly shows the Petitioner's grandfather's caste to be Hindu Thakar.

4] The Apex Court in the case of Anand Vs. Committee for Scrutiny and Verification of Tribe Claims and others¹ has held that pre-constitutional documents would have more probative value. Reasoning given by the Scrutiny Committee for quashing and setting aside this document is that said document does not mention Thakar Scheduled Tribe. In so far as the observation of Respondent No.2 - Scrutiny Committee that in the documents of forefathers of the Petitioner, the words “Scheduled Tribe” are not written is concerned, we find that the same is totally erroneous. The Scheduled Tribe order came to be promulgated for the first time in the year 1950. As such, there could be no question of “Scheduled Tribe” being written as suffix to “Thakar”. As such, non-consideration of the said document in our view is not sustainable. Apart from that the Petitioner has placed on record the Caste Validity Certificate granted in favour of the Petitioner's father's real brother, namely Pratap Shankar Thakar dated 11th September 2018.

5] In that view of the matter, in view of the law laid down by the Division Bench of this Court in the case of Apoorva d/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee

¹ (2012) 1 SCC 113.

and others 2010(6) Mh.L.J. 401², Petitioner's claim deserves to be validated.

6] In the result, following order is passed :-

ORDER

I] Rule is therefore made absolute by quashing and setting aside the impugned order dated 31st December 2012.

II] It is held and declared that the Petitioner belongs to “Thakar” Scheduled Tribe.

III] The Caste Validity Certificate be issued to the Petitioner within a period of two weeks from the date of uploading of the order.

IV] Needless to state that all consequences shall follow.

[SANDEEP K. SHINDE, J.]

[B. R. GAVAI, J.]

² 2010(6) Mh.L.J.401.