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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.3495 OF 2018

Rama Vishram Thakur	]	
Aged 60 years, resident of	]	
Konalkatta, Tal. Dodamarg,	]	
District Sindhudurg	]	 Petitioner.

V/s

1] State of Maharashtra	]	
through its Secretary, Tribal	]	
Development Department,	]	
Mantralaya, Mumbai – 400032	]	
	]	
2] Scheduled Tribe Certificate	]	
Scrutiny Committee, Konkan	]	
Division, Thane through its	]	
Member Secretary having its	]	
Office at Vartak Nagar, Vedant	]	
Complex, opposite Kores Co.	]	
Vartak Nagar, Wagale Estate,	]	
Thane (W), Dist. Thane.	]	
	]	
3] Zilla Parishad – Sindhudurg	]	
Through its Chief Executive	]	
Officer, having its Office at Oras	]	
District Sindhudurg	]	
	]	
4] Sub Divisional Officer,	]	
Sawantwadi Sub Division	]	
Sawantwadi, Dist. Sindhudurg	]	 Respondents.

Mr. R. K. Mendadkar a/w Mr. T. V. Jadhav, Ms. Komal Gaikwad & Tejaswini Bhamare, Advocate for the Petitioner.

Mr. P. G. Sawant, AGP for Respondent Nos.1, 2 & 4.

Mr. Ramesh D. Rane, Advocate for Respondent No.3 – ZP.

**CORAM: B. R. GAVAI &
N. J. JAMADAR, JJ.**

DATE: 1st MARCH, 2019

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

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

2] By way of present Petition, Petitioner has challenged the order dated 22/12/2017 vide which the claim of the Petitioner of belonging to “Thakar” community has been invalidated on the ground that the Petitioner was from Sindhudurg District of State of Maharashtra and his community was earlier notified as Nomadic Tribe.

3] The issue is no more *res integra*. A Division Bench of this Court, to which one of us (Gavai, J.) was a Member, vide its Judgment dated

16/4/2018 in Writ Petition No.1158 of 2018 has extensively considered the issue. It will be relevant to refer to the following observations in the said Judgment:-

“However, in this connection, learned Counsel for the petitioner has specifically invited attention of this Court to the judgement of this Court in W.P. No.6048 of 2004 where the court has dealt with a G.R whereby “Thakar” community was notified as N.T. But this Court by its judgement has specifically observed that the said caste was wrongly recognised as N.T. and since in the light of change in policy of the State Government the caste Thakar was already placed at Entry No.44 of Scheduled Tribe Order, the said entry of being Nomadic Tribe was found to be erroneous. In the light of the aforesaid fact there was no fault on the part of petitioner in obtaining a certificate of belonging to N.T. since the State Government itself had recognised the caste Thakar as N.T for a period of time.”

Apart from that, the Petitioner has placed on record pre-constitutional document viz. the School Leaving Certificate of the

father of the Petitioner, issued by the Head Master of the School, Education Department, Zilla Parishad, Sindhudurg. The perusal of the said document would show that the Petitioner's father viz Vishvas Rama Thakur was born on 01/03/1913. He was admitted in the School on 02/02/1927. His caste is shown as “Thakar”.

4] Since the pre-constitutional document which has been produced by the Petitioner in which the caste of the Petitioner's father is shown to be “Thakar”, the ratio of the judgment in the case of *Anand Vs. Committee for Scrutiny of Tribe Claims and Others*¹ would squarely apply to the facts of the present case.

5] In that view of the matter, Petition is allowed and the impugned order is quashed and set aside. Respondent- Committee is directed to issue validity certificate to the Petitioner. If any pensionary and terminal benefits are withheld on the basis of the impugned order, the same shall be released to the Petitioner within a period of eight weeks from today.

¹ (2012) 1 SCC 113

6] Rule is made absolute in the aforesaid terms. However, there shall be no order as to costs.

(N. J. JAMADAR, J.)

(B. R. GAVAI, J.)