

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

WRIT PETITION NO.7565 OF 2016

Santosh Parkash Gaikwad,
Aged 32 years, residing at
House No.889, Vivekanand Nagar,
Hatture Vasti, Hotagi Road,
Majrewadi, Solapur, Dist: Solapur

..Petitioner

Versus

1] State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai-400 032.

2] Scheduled Tribe Certificate,
Scrutiny Committee, Pune Division,
Pune Through its Member Secretary,
having its office at 28, Queen's
Garden, Pune-411 001.

3] Commissioner of Police,
Solapur City, Solapur.

4] Sub Divisional Officer,
Karmala Division, Karmala,
Dist: Solapur.

..Respondents

Mr. R. K. Mendadkar a/w Mr. C. K. Bhangoji, Advocate for the
Petitioner.

Mrs. R. A. Salunkhe, AGP for Respondent Nos.1 to 4.

**CORAM : B. R. GAVAI &
N. J. JAMADAR, JJ.
DATE : 29th JANUARY, 2019**

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

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

2] The Petitioner by way of present Petition impugned the order dated 30th January 2016, passed by the Respondent No.2 – Scrutiny Committee, thereby invalidating the claim of the Petitioner of belonging to “Thakar” Scheduled Tribe.

3] It is the contention of the Petitioner that the Division Bench of this Court vide judgment and order dated 8th August 2018 in Writ Petition No.8763 of 2018 in the case of his cousin Sweta Gaikwad, by an elaborate judgment has held the claim of said Sweta Gaaikwad to be belonging to “Thakar” Scheduled Tribe as valid. Learned counsel therefore submits that in view of the judgment of the Division Bench of this Court in the case of Apoorva d/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No.1 and others¹, the Petitioner is also entitled to the said declaration.

4] The order impugned in the present Petition is passed on

1 2010 (6) Mh.L.J. 401.

30th January 2016, whereas the judgment and order passed by the Division Bench of this Court is on 8th August 2018. As such, the Respondent No.2 – Scrutiny Committee did not have benefit of considering the effect of the judgment of the Division Bench of this Court.

5] In that view of the matter, we find that it will be in the interest of justice to remand the matter to the Respondent No.2 – Scrutiny Committee for consideration afresh. In the result, following order is passed :-

ORDER

I] The impugned order is therefore quashed and set aside.

II] The matter is remanded to the Respondent No.2 – Scrutiny Committee for considering the claim of the Petitioner afresh in the light of the judgment delivered by the Division Bench of this Court in Writ Petition No.8763 of 2018 (Kum. Sweta Mohan

Gaonkar Vs. State of Maharashtra and others).

III] The Petitioner would be at liberty to place on record other documents including the genealogy etc.

IV] The Petitioner to appear before the Respondent No.2 – Scrutiny Committee on 11th February 2019, as such the requirement of formal notice shall stand waived.

V] The Respondent No.2 – Scrutiny Committee shall decide the claim of the Petitioner within a period of four months from the date of first appearance of the Petitioner.

VI] Rule is accordingly made absolute in the aforesaid terms.

[N. J. JAMADAR, J.]

[B. R. GAVAI, J.]