

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4697 OF 2015

Rashmi Laxman Bawalekar
Aged 31 years,
Occupation Service,
Resident of at Post Ashiye,
(Thakurwadi), Tal. Kankavali,
District Sindhudurg.

...Petitioner.

Vs.

1. State of Maharashtra
through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai 400032.
2. Scheduled Tribe Certificate
Scrutiny Committee.
Konkan Division, Thane,
having office at Vartak Nagar,
Ward Office, Opp. Kores Co.,
Vedant Complex,
Vartak Nagar, Thane(W).
3. Education Officer (Primary),
Zilla Parishad Oras, Sindhudurga,
District Sindhudurga.
4. Zilla Parishad, Sindhudurga,
Through Chief Executive Officer,
District Sindhudurga.

....Respondents.

Mr. S.C. Yeramwar with Mr. R.K. Mendadkar for Petitioner.
Ms. Nisha Mehra, AGP for Respondent Nos. 1 and 2.

CORAM : PRADEEP NANDRAJOG, C.J. &
SMT. BHARATI DANGRE, J.

DATED : RESERVED ON SEPTEMBER 19, 2019

PRONOUNCED ON OCTOBER 17, 2019

JUDGMENT : (Per SMT. BHARATI DANGRE, J.)

1. The petitioner, being aggrieved by the order dated 23.3.2015 passed by the Scheduled Tribe Certificate Scrutiny Committee, Konkan Division, Thane has invoked the writ jurisdiction of this court and prays for quashing and setting aside the said order. She has also seeks a declaration from this court to the effect that she belongs to 'Thakar' tribe which is recognized as Scheduled Tribe and her certificate dated 19.4.2003 issued by the competent authority to that effect be validated.

2. With the assistance of the learned counsel Shri. Mendadkar and the learned AGP representing for respondent Nos. 1 and 2, we have perused the interim order. The said order makes a reference to the documents relied upon by the petitioner in establishing her claim as

belonging to Thakar Scheduled Tribe. The oldest document relied on by the petitioner is a School Leaving Certificate in respect of her cousin uncle Vithoba Bhagwan Bawalekar issued by the Head Master, Zilla Praishad Primary School, Sukalwad, Taluka Malvan, District Sindhudurga where the caste is recorded as Thakar. The Committee recorded a finding that the said documentary evidence produced by the petitioner is not sufficient to establish her claim that she is Thakar Scheduled Tribe. On 15.10.2018, the petitioner has placed on record an affidavit placing on record Vigilance Cell report of respondent No.2-Committee which has brought on record the document of her blood relatives from the paternal side from the year 1952 onwards. She has also stated in the affidavit that the real brother of her grand father from the paternal side by name Chintu Narayan Bawalekar has attended the primary school on 4.8.1939 and his social status is recorded as Thakar. She proceeds to state in the affidavit that she has therefore executed a fresh affidavit and furnished the entire genealogy tree of her family before the Scrutiny Committee on 27.9.2018. The said affidavit tendered to the Committee is placed on record along with her affidavit dated 15.10.2018. The said affidavit is also accompanied by a School Leaving Certificate of Chintu Narayan Bawalekar where date of birth is

recorded as 4.8.1939.

3. On perusal of the said documents we note that the genealogy tree which the petitioner has also placed on record is distinct from one which was part of the Vigilance Cell report dated 25.1.2010. The Vigilance Cell also make reference of cousin uncles of the petitioner by name Vithoba Bhagwan Bawalekar, Mahadeo Bhagwan Bawalekar. The genealogy tree which is submitted by the petitioner referred only three branches are Tukaram Narayan Bawalekar (son), Bhagwan Narayan Bawalekar (son) Beby Narayan Bawalekar (daughter). The latest affidavit submitted by the petitioner refers to 4th branch in the name of Chintu Narayan Bawalwekar. We fail to understand as to how this Chintu Narayan Bawalekar suddenly surfaced in the year 2018 and this is for the petitioner to explain and the Committee to verify if the petitioner has pleaded and inform to sworn an affidavit before the court relying upon genealogy tree which she has submitted to the Scrutiny Committee in the year 2018 and we quite see at a latter point of time when her claim came to be rejected we feel that if she is ready to take the risk, we may permit her to do so. In order to afford one more opportunity to the petitioner to establish her claim

based on 4th branch of her family which is conspicuously absent during the earlier Vigilance enquiry carried out, based on which the claim of the petitioner is rejected, it is she who will have to face the consequences too.

4. Needless to say that the documents on which the petitioner now place reliance by way of affidavit tendered before the Committee, were not scrutinized by the Committee as they were not produced then. At the risk and consequences of the petitioner, we permit the Committee to verify the genuineness of the claim of the petitioner which is put forth in the additional affidavit to the extent of modifying the genealogy tree. We are therefore inclined to remand the matter back to respondent No.2 Scrutiny Committee to examine the claim of the petitioner in the light of the affidavit sworn by her on 27.9.2018 and specifically enquire into genuineness of the document of her cousin grand father Chintu Narayan Bawalekar as has been claimed by the petitioner to be the part and parcel of the petitioner's ancestors. We, however, make it clear that, if these documents are found to be fabricated or it is noted by the Committee that the petitioner has tried to take advantage of this court by placing documents before this court,

resulting into order of remand, we issue directions to the Scrutiny Committee to sternly deal with the petitioner not only for misleading the Committee but also for misleading this Court.

We direct the Scrutiny Committee to reexamine the claim of the petitioner in the light of the affidavit submitted by her on 15.10.2018 accompanied by fresh affidavit re-framing the genealogy tree and this inquiry should be conducted through the Vigilance Cell. We direct the Scrutiny Committee to complete the aforesaid exercise of verification of the claim of the petitioner in the light of the subsequent development which she has placed on record by an additional affidavit by discounting the petitioner on the premise that the said documents and the information was not available with her when her claim was scrutinized. The Scrutiny Committee is directed to carry out the aforesaid exercise within a period of six months from the date of receipt of the order. We quash and set aside the impugned order passed by respondent No.2 Scrutiny Committee and remand the case of the petitioner to the Committee for re-verification in the light of the fresh affidavit submitted by the petitioner, within a period of six months.

5. During the pendency of her claim before respondent No.2-Committee, we restrain respondent Nos. 3 and 4 from taking any coercive action against the petitioner on the basis of rejection of her caste claim by the impugned order.

6. Writ Petition is made absolute in the aforesaid terms. No order as to costs.

SMT. BHARATI DANGRE, J.

CHIEF JUSTICE