

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

**WRIT PETITION NO. 7583 OF 2016**

Narayan Dattaprasad Rasankute. ... Petitioner  
Vs  
State of Maharashtra and others. ... Respondents

Mr.R.K.Mendadkar with Mr.Chintamani Bhangoji for Petitioner.  
Mr.K.S.Thorat, AGP for the State.

**CORAM : PRADEEP NANDRAJOG, C.J.  
AND N.M.JAMDAR, J.**

**Date : 8 July 2019.**

**P.C. :**

The Petitioner has challenged the order passed by the Scheduled Tribe Certificate Scrutiny Committee, Thane invalidating caste certificate issued to the Petitioner as belonging to Thakar Scheduled Tribe.

2. The Petitioner applied for caste certificate to the Deputy Collector, Sindhudurg as belonging to Thakar Scheduled Tribe. The Deputy Collector issued the caste certificate on 6 November 2001. On the basis of this caste certificate, in the year 2012 the Petitioner was granted admission in the Computer Engineering Degree Course by the Respondent No.3- Dr.Babasaheb Ambedkar Technological

University, Raigad under the Scheduled Tribe category. The Petitioner took admission for the course in the year 2012. The caste certificate of the Petitioner was sent for verification to the Scrutiny Committee, Thane. The Scrutiny Committee called for report of the Vigilance Cell. The Vigilance Cell made enquiries, interviewed the relatives of the Petitioner and submitted a report. The Petitioner with his father appeared before the Scrutiny Committee on 14 February 2013 and also filed a reply. The Scrutiny Committee invalidated the caste certificate of the Petitioner by order dated 14 February 2013. The Petitioner filed Writ Petition No.2568/2013 challenging the order passed by the Scrutiny Committee. The Division Bench set aside the order and remanded the proceedings to the Scrutiny Committee.

3. The Petitioner on remand appeared before the Committee on 18 March 2014. During the pendency of the scrutiny, since the Respondent- University was not admitting the Petitioner to the final year of B.Tech degree course, the Petitioner filed Writ Petition No.6993/2014 and the Division Bench by order dated 6 August 2014 directed the Respondent- University to grant admission to the Petitioner in the final year of B.Tech degree course subject to further orders. In the meanwhile, upon remand the Scrutiny Committee considered the matter and by the impugned order dated 23 March 2015 invalidated the caste certificate issued to the Petitioner.

4. Hence the Petitioner has approached this Court with the present writ petition. The Petitioner has completed his B.Tech degree course but his statement of marks and other original documents have been withheld for want of caste validity certificate.

5. We have heard Mr.Mendadkar for the Petitioner and Mr.Thorat, learned AGP for the State.

6. Before the Scrutiny Committee, the Petitioner had produced documents pertaining to himself, his father, grandfather and aunt. He had produced the school leaving certificates, village extracts, certificate of residence in respect of himself, his father and grandfather. In these documents, the caste mentioned is Hindu Thakar Magas. The school leaving certificate of the grandfather is of the year 1950. The officer attached to the Vigilance Squad obtained documents and copies of school admission general registers pertaining to the applicant and his relatives on paternal side. As regards grandfather of the Petitioner, the dates of birth and admission were 5 July 1939 and 1 April 1950 respectively. Entry in the school register was Thakar. As regards two aunts of the Petitioner, the entries pertaining to the years 1977 and 1974 were Hindu Thakar Magas. The Petitioner's father's entries in the school register was also Hindu Magas.

7. The Committee commented on various entries and stated that none of these supports the tribe claim of the Petitioner of Thakar Scheduled Tribe. The Scrutiny Committee did not hold

that Magas is a separate community. Magas is a colloquial term to mean Backward. The Scrutiny Committee held that the Thakar Scheduled Tribe from Sindhudurg District was included in Nomadic Tribe till the year 2004 and, therefore, merely because there are entries as Thakar in the record of the Petitioner's relatives, it would not conclusively establish that the Petitioner belongs to Thakar-Scheduled Tribe.

8. As far back on 14th September 2004, the Division Bench of this Court in the case of ***Amol Narayan Wakkar v. Sate of Maharashtra***<sup>1</sup>, had an occasion to consider the status of Thakar community in the original Ratnagiri District (now Sindhudurg) of the State of Maharashtra. In this case, the Scrutiny Committee had invalidated caste certificates of almost 200 persons from Ratnagiri district which certified them as Thakar Scheduled Tribe. The Scrutiny Committee held that Thakar from Ratnagiri District did not belong to Thakar Scheduled Tribe as prescribed in Entry 44 of the Presidential Order and they were correctly classified as Nomadic Tribe at serial No.22 of the Government Resolution in Education and Social Welfare Department dated 21 November 1961. According to the Scrutiny Committee, a Nomadic Tribe could not be changed to any other caste or community. The Division Bench, after considering the law on the subject, held that plain reading of Entry 44 would show that Thakar community is included in Scheduled Tribes and it is not permissible for the State Government or the

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1 2005 (2) ALL MR 16

Courts to deny the benefits available to the Scheduled Tribe Community to the members belonging to the Thakar community in erstwhile Ratnagiri District. The Division Bench accordingly set aside the order and remanded the matter back to the Scrutiny Committee to decide it in the light of the legal position and observations made.

9. An identical issue arose before another Division Bench of this Court in the case of *Dilip S/o. Mahadev Mhaske v. The State of Maharashtra*<sup>2</sup>. The Petitioner therein was also resident of Sindhudurg District and his caste was mentioned as Hindu Thakar and one of his relative's entry was Hindu Magaslela. The Petitioner therein had produced a communication issued on 30 August 1979 by the Government of Maharashtra to the President, Gokul Prkalp Prathisthan, Kudal directing that all Thakars from Ratnagiri District be treated as Thakar Scheduled Tribes. The Division Bench referred to the decision in the case of *Amol Narayan Wakkar v. Sate of Maharashtra* (supra) and held that the view taken by the Committee that the Thakar in Sindhudurg District were not Scheduled Tribes and, therefore, validity certificate cannot be granted, could not be sustained. The Division Bench also referred to the decision of the Supreme Court in the case of *Anand v. Committee for Scrutiny and Verification of Tribe Claims*<sup>3</sup>. The Division Bench accordingly proceeded to direct the Committee to issue a validity certificate. We have not been shown any contrary

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2 WP No.1158/2018 decided on 16<sup>th</sup> April 2018.

3 2012 (1) SCC 113

decision. The facts of the Petitioner in the present case are identical. The entries in the Petitioner's records also show caste of Hindu Thakar. There is no adverse entry in the Petitioner's record inasmuch that there is no entry of any other community. The documents produced by the Petitioner as far back of 1950 show the entry of Hindu Thakar. The generic ground that Thakars from Sindhudurg District are not entitled to the status of Schedule Tribes has already been commented upon in the above two decisions and disapproved.

10. In these circumstances, considering the fact that the matter was remanded once and no cogent ground is placed on record to deny the tribe claim, we dispose of this petition by quashing and setting aside the impugned order dated 23 March 2015 and direct the Respondent No.2- Scrutiny Committee to issue certificate of validity to the Petitioner in respect of caste certificate dated 6 November 2001, within eight weeks from today. Order accordingly.

**N.M.JAMDAR, J.**

**CHIEF JUSTICE**