

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7545 OF 2019**

Bhakti Narendra Gaikwad & Ors

...Petitioners

Versus

State of Maharashtra & Ors

...Respondents

Mr RK Mendadkar, *for the Petitioners.*

Mr BV Samant, *AGP, for the Respondent-State.*

Mr CD Pawar, *Research Officer, Caste Verification Committee, Pune.*

**CORAM: S. C. DHARMADHIKARI &
G.S. PATEL, JJ**

DATED: 10th July 2019

PC:-

1. By this Writ Petition under Article 226 of the Constitution of India, the Petitioners are challenging the order dated 2nd April 2019 passed by the Scrutiny Committee invalidating the claim of the Petitioners as Thakar, Scheduled Tribe.

2. Petitioner No. 1 before us is a student seeking admission to the MBBS degree course. It is stated that Petitioner No. 2 is also a student and Petitioner No. 3 equally is desirous of seeking admissions to higher educational institutions where seats are reserved for Scheduled Tribes.

3. Though there are no details provided of any of the above nature, orally Mr Mendadkar submits that this is an extremely urgent matter and if nothing is done before 12th July 2019, the chances of Petitioner No. 1 would be totally lost and defeated. In other words, she would not be able to secure admission.

4. Mr Mendadkar has invited our attention to the infirmity in the impugned order, and particularly by relying upon Grounds 2 and 3. He would submit that the Petitioners relied upon the Validity Certificate issued in favour of the father and real uncle of the Petitioners.

5. In that regard, Mr Mendadkar relied upon page 93 of the paper-book which is stated to be a copy of the genealogy and family tree. It is stated that Ravji Gaikwad was the common ancestor. He had one son Rama. In turn, Rama had one son Pandharinath and Pandharinath had four sons and a daughter. The Petitioners belong to the branch of Tanaji as also Suryaji.

6. The Petitioners' father was son of Suryaji. The Petitioners are sons of Narendra. In case of Narendra, that is the father of the Petitioners, the Committee had issued a Validity Certificate. The argument is that the father belongs to the Tribe, then, it cannot be that the children belong to a different Tribe. A Caste and Tribe is derived from the father and none else.

7. With the assistance of Mr Mendadkar appearing for the Petitioners and and Mr Samant, AGP appearing for the Respondent-State, we have perused the impugned order. The Petitioners relied upon several documents including copies of the Caste Validity Certificate issued to their father, Narendra Suryaji Gaikwad on 22nd June 2001 by the Scrutiny Committee at Nashik. They also relied upon the Caste Validity Certificate issued by Respondent No.2 to the uncle of the Petitioners, Sudarshan Suryaji Gaikwad. However, in the entire order there is not a sentence or a word about the probative value of these documents. These documents were on record and indeed relevant. For discarding them the only reason that is legally permissible is a proven fraud or misrepresentation in obtaining these Validity Certificates. In the absence of any material, the certificates would not be discarded. That they have been completely omitted from consideration is evident from a reading of the impugned order.

8. We have carefully perused the impugned order with the assistance of the parties and we find from the original record that the certificates of validity issued to Narendra Suryaji and Sudarshan Suryaji were produced. In these circumstances, we are left with no choice but to hold that the impugned order is entirely perverse. It is unsustainable in law for it is vitiated by non application of mind and perversity writ large on the face of it.

9. In the circumstances, it is quashed and set aside. The matter is remitted back to the Caste Scrutiny Committee at Pune for a scrutiny afresh on merits and in accordance with law.
10. The Committee shall pass a fresh order as expeditiously as possible and in any event within a period of two months from today.
11. The Writ Petition is disposed of in these terms.

(S. C. DHARMADHIKARI, J)

(G. S. PATEL, J)