

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
1049 WRIT PETITION NO.9093 OF 2019**

POOJA PRAKASH CHAVAN

..PETITIONER

VERSUS

SCHEDULED TRIBE CERTIFICATE SCRUTINY COMMITTEE
AURANGABAD AND OTHERS

..RESPONDENTS

...

Mr. Mahesh S. Deshmukh, Advocate for the
Petitioner.

Mr. P. S. Patil, AGP for Respondents-State.

Mr. J. R. Patil, Advocate for Respondent No.2.

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**CORAM : S. V. GANGAPURWALA &
SHRIKANT D. KULKARNI, JJ.**

DATED : 13th MARCH, 2020.

PER COURT:-

1. The caste claim of the petitioner as 'Takur', Scheduled Tribe is invalidated. Aggrieved thereby, the present writ petition.

2. The learned counsel for the petitioner submits that the school record of the petitioner, his brother, father, grandfather and uncle consistently record caste as 'Thakur', Scheduled Tribe. The school record of the petitioner's grandfather Ashru Shamrao is of the year 1956. Not a single contra evidence exist. The father of the petitioner namely Prakash, real brother of the petitioner namely Sharad, uncle of the petitioner namely Suresh and the son of real uncle of the petitioner namely Akshay are issued with the validity certificate of 'Thakur', Scheduled Tribe.

At the time of issuing the validity to the brother Sharad, vigilance has been conducted. The respondents have denied the validity on the ground that the traits of 'Thakur', Scheduled Tribe given by the petitioner are found in the book. According to the learned counsel the area restriction does not apply. There was no reason for the respondents to negative the claim of the petitioner.

3. The learned A.G.P. for the respondents submits that the validity issued to the father, brother and uncle of the petitioner is being reopened and show cause notices are issued to those persons seeking explanation from them as to why the validity granted to those persons should not be revoked/canceled. In fact, the petitioner does not pass the affinity test also. The learned A.G.P. further submits that claim one of the cousin of the petitioner namely Sheshrao Kundlik Chavan is invalidated in the year 2006. The said validation is suppressed by the relatives of the petitioner while getting the validity certificate. The Committee has rightly rejected the claim.

4. We have considered the submissions canvassed by the learned counsel for the respective parties.

5. The brother of the petitioner Sandip is issued with the validity certificate in the year 2004. At that time the vigilance is conducted.

Two real brothers of the petitioner are issued with the validity certificate. The father of the petitioner is issued with the validity certificate. The real uncle of the petitioner is issued with the validity certificate, so also son of the real uncle of the petitioner namely Akshay is also issued with the validity certificate of 'Thakur', Scheduled Tribe. The real brother of the petitioner for the first time is issued with the validity certificate in the year 2004. The school record of the petitioner, his father, grandfather, uncle and brothers consistently record caste as 'Thakur' Scheduled Tribe. The said record is since the year 1956. The Committee at one place observed that the answers given by the petitioner with regard to the traits is bookish, that cannot be the ground to negate the affinity test. More over, the affinity is not the litmus test as is held by the Apex Court in the case of **Anand Vs. Committee for Scrutiny and Verification of Tribe Claims and Ors.** reported in **AIR 2012 SC 314.**

6. Considering the above and the fact that the validity issued to the father, brother of the petitioner is reopened, we pass the following order:

ORDER

- A. The impugned order is quashed and set aside.

- B. The Committee shall issue the validity certificate to the petitioner of 'Thakur', Scheduled Tribe immediately. The same shall be subject to the decision that would be taken by the Committee with the validity certificate issued to the father, brothers of the petitioner that is sought to be reopened.
- C. If the internship certificate is withheld only on the ground that the caste claim of the petitioner is invalidated, then the respondents shall issue the internship completion certificate immediately.
7. Writ Petition is disposed of. No costs.
8. Parties to act on authenticate copy.

(SHRIKANT D. KULKARNI)
JUDGE

(S. V. GANGAPURWALA)
JUDGE