

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1263 OF 2020

Jidnyesh s/o Devanand Thakur
and Anr. through Father Devanand s/o
Tulshiram Thakur

...Petitioners

Versus

Scheduled Tribe Certificate Scrutiny
Committee, Nandurbar
Through its Member Secretary

...Respondent

Mr Mahesh S. Deshmukh, Advocate for Petitioners
Mr P.S. Patil, Addl. G.P. for Respondent-sole

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

DATE: 14th SEPTEMBER, 2020

PER COURT :

1. The caste claim of the petitioners as Thakur is invalidated. Aggrieved thereby, the present petition.

2. Mr Deshmukh, the learned Counsel for the petitioners submits that the Committee relied on singular isolated entry of the cousin great grandfather of the petitioners namely, 'Jatan Bhuta' to hold that his entry in the school record is Bhat. All other consistent entries have been ignored. The learned counsel submits that even this Court in writ petition filed by Rohit Khanderao Thakur and Mohit Khanderao Thakur, the real cousins of the petitioners allowed the writ petition holding that they belong to Thakur, Scheduled Tribe. The learned Counsel further submits that the

caste claims of one Samrudhi and Aryan, other cousins of the petitioners are pending consideration with the Committee. In their case, vigilance was conducted and the Committee found the oldest record of 1903 and 1905 of the cousin great grandfather of the petitioners namely, Ragho S/o Shamsingh and Harsing S/o Nimji as Thakur. According to the learned counsel, the claims of Samrudhi and Aryan are still pending with the Committee. These two oldest documents have been found to be genuine by the vigilance Cell. The Committee can consider the said documents in the case of the petitioners also.

3. Mr Patil, the learned Additional Government Pleader submits that as far as judgment of this Court is concerned, the Committee is contemplating filing review. According to the learned counsel, no error can be found in the judgment of the Committee wherein the Committee relied upon the old record of the cousin great grandfather of the petitioners namely, Jatan Bhuta. That entry was not before the Court and when the earlier validity proceedings were decided by the Committee.

4. We have considered the submissions canvassed by the learned counsel for the parties. It appears that in the family of the petitioners, four validity certificates are issued of Thakur, Schedule Tribe. There are orders passed by this Court in case of paternal cousins of the petitioners declaring of belonging to Thakur Scheduled Tribe. From the judgment, it does not appear whether the entry of Jatan Bhuta was available.

5. It also appears that in case of cousins of the petitioners, namely, Samrudhi and Aryan, the validation proceedings are pending before the Committee. The vigilance is conducted in their case.

6. The petitioners have placed on record the vigilance report. The petitioners have tried to demonstrate that Rago S/o Shamsing and Harsing S/o Nimji are his cousin great grandfathers and in their school record, the Vigilance Cell has found the entry of Thakur to be genuine.

7. As it is, the validation proceedings of Samrudhi and Aryan are pending. In that case, if the petitioners are related with them, the petitioners claim can also be decided along with the claim of the Samrudhi and Aryan and the petitioners would get an opportunity to place reliance upon the documents of the year 1903 and 1905 as contended by the petitioners.

8. In light of the above, we pass the following order :-

(i) The impugned order is quashed and set aside.

(ii) The parties are relegated to the Scrutiny Committee. The Scrutiny Committee shall consider the vigilance report in case of the real paternal cousins of the petitioners namely, Samrudhi and Aryan, so also, the additional documents that may be relied upon by the petitioners.

(iii) The petitioners shall appear before the Committee on 22nd September, 2020.

(iv) The Committee shall thereafter decide the proceeding within a period of four weeks.

9. The writ petition is disposed of. No costs.

[SHRIKANT D. KULKARNI, J.]

[S.V. GANGAPURWALA, J.]

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