

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 6915 OF 2019

Rajashree Suresh Thakur

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Mr. Sushant C. Yeramwar, Advocate for the Petitioner.

Mr. S. G. Karlekar, AGP for Respondent Nos. 1 and 2.

**CORAM : S. V. GANGAPURWALA &
 R. N. LADDHA, JJ.**

DATED : 17th November, 2021.

PER COURT:-

. The tribe claim of the petitioner as belonging to “Thakur” (Scheduled Tribe) is invalidated.

2. Mr. Yeramwar, learned counsel for the petitioner submits that the pre-constitutional and pre-presidential school record of the petitioner’s grandfather records tribe as “Thakur”. The said entry is of the year 1942. Even in case of cousin grandfather of the petitioner the tribe is recorded as “Thakur”. The said entry is of the year 1947. In the school record of the petitioner’s father and three uncles, the tribe is recorded as “Thakur”. Only in case of one paternal cousin uncle namely Dilip the tribe is recorded as “Maratha”. The same is of the year 1976. All

consistent entries of pre-constitutional documents record tribe as “Thakur”. The learned counsel submits that, in view of the consistent documentary evidence of “Thakur” it was inappropriate on the part of the committee to invalidate the tribe claim of the petitioner. The affinity test is not the litmus test. The learned counsel relies on the judgment of the Apex Court in a case of *Anand Vs. Committee* reported in *(2012) 1 SCC 113*.

3. The learned counsel further submits that, one of the paternal cousin of the petitioner namely Jyoti d/o Baburao is issued with the validity certificate under the orders of this Court in Writ Petition No. 2164 of 2010 dated 20.09.2010.

4. Mr. Karlekar, learned A.G.P. submits that the relationship of the petitioner with Jyoti d/o Baburao is not proved. Even Jyoti in her genealogy has not shown the petitioner’s branch to be relative. The petitioner has also not shown Jyoti to be her relative in original genealogy. After eight years she is being shown as relative of the petitioner. The learned A.G.P. further submits that the petitioner does not reside at a place where normally “Thakur” (Scheduled Tribe) persons reside. The petitioner failed to prove the affinity test. All these aspect are considered by the committee and has rightly negated the

contention of the petitioner.

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

6. We have gone through the judgment and documents placed on record. It is a matter of fact that all the pre-constitutional and pre-presidential documents, school record of the petitioner's grandfather and cousin grandfather record tribe as "Thakur". The petitioner's father and uncles tribe is also recorded as "Thakur" in the school record. The school record of the petitioner's grandfather is of the year 1942 and school record of the cousin grandfather is of the year 1947. The school record of the petitioner's father is of the year 1966 and school record of three uncles is of the year 1968, 1964 and 1978. All these consistent entries would prove that the petitioner belongs to "Thakur" caste.

7. The committee, it appears, has placed much emphasis on the persons residing in the near vicinity of the place where the petitioner was residing. In fact, the same was not required in the present matter when all the entries in the school record of the petitioner's grandfather, cousin grandfather, uncles and father record tribe as "Thakur". The Apex Court in a case of *Anand Vs. Committee* (supra) has held that

affinity test is not the litmus test. Area restriction has been removed. Considering the consistent old entries in the school record of the petitioner's grandfather, cousin grandfather, uncles and father, the impugned judgment is quashed and set aside. The committee shall issue validity certificate to the petitioner of "Thakur" (Scheduled Tribe) immediately.

8. Writ petition accordingly is disposed of. No costs.

(R. N. LADDHA)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

PS.B.