

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

1065 WRIT PETITION NO.9287 OF 2021

1. Kum. Shital Prasadrao Pawar,
2. Akash Prasadrao Pawar. **... Petitioners**

Versus

The State of Maharashtra and others. **... Respondents**

...
Mr. Sagar S. Phatale, Advocate for Petitioners.
Mrs. M. A. Deshpande, AGP for Respondent/State.
Mr. S. G. Karlekar, Advocate for Respondent No.3.
...

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

DATE : 27th October, 2021.

PER COURT:

. The caste claim of the petitioners as Thakar Scheduled Tribe is invalidated.

2 The learned counsel for petitioners submits that the father of petitioners Prasad is issued with the validity certificate of Thakar Scheduled Tribe after conducting vigilance. All the entries, which are considered by the Committee in the present matter, were subject matter of consideration in the earlier proceedings. The cousin uncle of petitioners namely Bhagwan is also issued with the validity certificate

of Thakar Scheduled Tribe. The learned counsel submits that initially the caste claim of the petitioners' father was invalidated. He had filed writ petition before the High Court. The High Court remanded the matter. The caste claim was invalidated relying upon the school entry, which initially was Maratha and corrected to Thakar. The High Court directed the Committee to record the statement of the Headmaster. The Committee, thereafter, recorded the statement of the Headmaster, who categorically stated that by mistake the then Headmaster had recorded the entry as Maratha. The then Headmaster corrected the said entry and had put his signature also. According to the learned counsel, all these entries referred to in the present matter were subject matter of consideration when the validity was issued to the father of petitioners. The learned counsel relied upon the judgment of the Division Bench of this Court in the case of *Apoorva Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee*, reported in, *2010 (6) Mh.L.J. 401* to contend that if the near relatives are issued with the validity certificate the same is the relevant factor.

3 The learned AGP submits that the entry of caste from Maratha to Thakar in the school record of the father of petitioners was not corrected in accordance with the procedure laid down under the Clause 26.4 of the Secondary School Code. The same would not have any value. According to the learned AGP, even in the school

record of Bhagwan, cousin uncle of petitioners, the caste is recorded as Maratha. The same has been rightly considered. The petitioners have failed in the affinity test.

4 We have considered the submissions.

5 All these entries, which the Committee contends to be contra, were subject matter of consideration while granting validity to the father of petitioners Prasad and the cousin paternal uncle of petitioners Bhagwan. The Committee while issuing the validity to the father of petitioners Prasad and the cousin uncle of petitioners Bhagwan did not dispute that they have proved the affinity test.

6 Show cause notices are issued to the father of petitioners and cousin uncle of petitioners as to why the proceedings issuing validity to them should not be reopened.

7 Considering the above, we pass the following order:

ORDER

- I. The Committee shall issue validate certificates to the petitioners of Thakar Scheduled Tribe immediately.

II. The said validity certificates shall be subject to the decision that would be taken by the Committee in the proceedings reopened of the validity holders relied by the petitioners.

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

[R. N. LADDHA, J.]

[S. V. GANGAPURWALA, J.]

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