

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.13409 OF 2021

VILAS LAXMAN THAKUR
VERSUS
STATE COMMON ENTRANCE TESTCELL THROUGH ITS
COMMISSIONER AND COMPETENT AUTHORITY AND ANOTHER

...
Advocate for Petitioner : Mr. Mahesh S. Deshmukh
AGP for Respondent No. 1 : Mr. M.D. Narwadkar

...
CORAM : S. V. GANGAPURWALA AND
S. G. DIGE, JJ.
DATE : 8th DECEMBER, 2021

PER COURT :-

1. The caste claim of the petitioner as “Thakur” Scheduled Tribe is invalidated.
2. Mr. Deshmukh, learned Advocate for the petitioner submits that the oldest entry is dated 19-07-2023 in the School record of cousin grand father, namely, Shankar Chindha Thakur, second oldest entry in the School record of Gulab Chindha Thakur, another cousin grand father of the petitioner is dated 20-07-1927, recording his caste as “Thakur.” The School record of the petitioner's grand father, namely, Thansing Chindha Thakur, is of the year 1933 and his caste is also recorded as “Thakur”. Similarly, cousin uncles of the petitioner, namely, Ukha Shankar Chindha and Vishwasrao Shankar Bhamre, as per their School record, their caste is recorded as “Thakur” in the years 1947 and 1954 respectively. All the entries are recorded as “Thakur”, only one entry i.e. School record of second degree of cousin namely Hiralal was of the year 1929 and his caste is recorded as “Rajput Thakur.” Apart from that, not a single contra entry exist and the oldest entry prior to the same are of “Thakur.” The learned counsel submits that vigilance reports in the case of another paternal cousin of the petitioner, namely, Ashwini

Shivdas Bhamre was relied upon, while deciding the proposal of the petitioner for issuance of validity certificate and no independent vigilance was conducted in the case of petitioner. Said Ashwini Bhamre is cousin niece of the petitioner and she is issued with validity certificate by the Committee. Other paternal relatives are issued with validity certificate as “Thakur” Scheduled Tribe by the Committee.

2. The learned AGP submits that one contra entry of “Rajput Thakur” exists in the second degree paternal cousin of the year 1947. According to learned AGP, the petitioner has failed in the affinity test.

3. We have considered the submissions.

4. The entry in the School record of the cousin grandfather of petitioner, namely, Shankar Chindha Thakur, records the caste as “Thakur”. The same is of the year 1923. Second oldest entry in the School record of Gulab Chindha Thakur, another cousin grand father of the petitioner is dated 20-07-1927, recording their caste as “Thakur.” The School record of the petitioner's grand father, namely, Thansing Chindha Thakur, is of the year 1933 and his caste is also recorded as “Thakur”. Similarly, in the school record of the cousin uncles of the petitioner, namely, Ukha Shankar Chindha and Vishwasrao Shankar Bhamre, their caste is recorded as “Thakur” in the year 1947 and 1954 respectively.

5. Except one entry recording caste as “Rajput Thakur” in degree cousin grand father there is no other contra entry on record. Ashwini Shivdas Bhamre paternal niece of the petitioner is issued with validity certificate by the Committee. The vigilance conducted in the case of Ashwini was only relied upon while invalidating the claim of the petitioner. On the basis of said vigilance report, two contrary judgments

appeared to have been delivered. Ashwini has been issued with validity certificate.

6. Considering the old documents on record, so also, validity issued to Ashwini wherein the common vigilance report has been considered, in her case and the petitioner's case and the validity issued to other paternal cousins, we pass the following order.

ORDER

- (I) The impugned order is quashed and set aside.
- (ii) The Committee shall issue the validity certificate to the petitioner of "Thakur" Scheduled Tribe, immediately
- (iii) Writ petition is disposed of. No costs.

(S.G. DIGE)
JUDGE

(S.V. GANGAPURWALA)
JUDGE

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