

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

98 WRIT PETITION NO. 630 OF 2022

YASHODEEP DEEPAK JAGTAP
VERSUS
SCHEDULED TRIBE CERTIFICATE SCRUTINY COMMITTEE AND
ANOTHER

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Advocate for Petitioner : Mr. Mahesh S. Deshmukh
Addl. GP for Respondent No. 1 : Mr. S.B. Yawalkar
Advocate for Respondent No. 2 : Mr. M.D. Narwadkar

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99 WRIT PETITION NO.633 OF 2022

DEEPAK BHAGWAT JAGTAP
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. Mahesh S. Deshmukh
AGP for Respondent Nos. 1 & 3 : Mr. S.B. Yawalkar
Advocate for Respondent No. 2 : Mr. S.G. Karlekar

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**CORAM : S. V. GANGAPURWALA AND
S. G. DIGE, JJ.**

DATE : 24th JANUARY, 2022

PER COURT :-

1. The caste claim of the petitioners as belonging to "Thakur" Scheduled Tribe is invalidated. Petitioners in both writ petitions are Son and father.
2. Mr. Deshmukh, learned counsel for the petitioners submits that only on the basis of one contra entry of the year 1937 in the School record of the cousin grandfather of the petitioner-Yashodeep, the claim of the petitioners is invalidated. All the entries prior to the said entry and subsequent to it, consistently recorded caste as "Thakur". The

learned counsel submits that one cousin paternal uncle of the petitioner, namely, Dnyandeo Tukaram Jagtap and another cousin uncle of the petitioner, namely, Dhanraj Ashok Jagtap are issued with validity certificates of 'Thakur' Scheduled Tribe. The learned counsel submits that School record of the cousin grandfather of the petitioners, namely, Bhikan of the year 1930 recorded the caste as 'Thakur' so also the School record of another cousin grandfather of the petitioner, namely Waman of the year 1936, recorded the caste as 'Thakur'. Similarly, in birth extract of cousin grandfather of Manik of the year 1937, his caste is recorded as 'Thakur'. Only one isolated contra entry in the name of cousin grandfather-Manik of 1937, recorded caste as 'Bhramabhat'. Entries from pre-constitutional era in the School record of petitioners' cousin grandfather, uncles, father are recorded as 'Thakur'. Similarly, validity certificates are also issued to the paternal relatives of the petitioners. The learned counsel submits that affinity test is not a litmus test. He relies on the judgment in the case of ***Anand Versus Committee for Scrutiny and Verification of Tribe Claims and others*** reported in ***(2012) 1 SCC 113***.

3. The learned counsel further submits that validity certificates issued to the nearest relatives is relevant fact. The learned counsel for the petitioners relies on the Judgment in the case of ***Apoorva d/o Vinay Nichale Versus Divisional Caste Certificate Scrutiny Committee and others*** reported in ***2010 (6) Mh.L.J. 401***.

4. The learned AGP submits that the petitioners failed in the affinity test. The petitioners also do not reside in the area where 'Thakur' Scheduled Tribe persons normally reside. The learned AGP further submits that the entry of 'Brahmabhat' in the School record of cousin grandfather of petitioners demonstrates that petitioners do not belong to 'Thakur' Scheduled Tribe and belong to 'Bhat' community. The

birth extract of said Manik is in torn condition and could not be verified by the Vigilance Cell.

5. We have considered the judgment delivered by the Committee.

6. Relationship of the petitioners with validity holders i.e. cousin paternal uncles is not disputed. Dnyandeo and Dhanraj are issued with validity certificates. They are cousin paternal uncle of the petitioner Yashodeep.

7. It would appear that oldest School record of the cousin grandfather of the petitioners, namely, Bhikan is of the year 1930 and his caste is recorded as Thakur. Another School entry of Waman Thakur i.e. cousin grandfather of the petitioner is dated 14-07-1936 and his caste is recorded as 'Thakur'. Thereafter, entries of 1941 and 1943 of other cousin grandfathers also recorded their caste as 'Thakur'. The School entry of grandfather of the petitioners, namely, Bhagwat of the year 1947 is recorded as 'Thakur'. One isolated contra entry is of the year 1937 in the name of Manik recording his caste as 'Bramhabhat', otherwise there are many other entries consistently recorded their caste as 'Thakur'. Two cousin paternal uncles - Dnyandeo and Dhanraj are issued with validity certificates as 'Thakur' Scheduled Tribe and the same also would be the relevant fact as held by the Division Bench of this Court in ***Apoorva Nichale's case*** (Supra). Show cause notices are issued to the validity holders to whom the validities are issued, relied upon by the petitioners. Considering the aforesaid facts, we pass the following order :

ORDER

(ii) The Committee shall issue validity certificates to the petitioners of 'Thakur' Scheduled Tribe immediately.

(ii) The said validity certificates shall be subject to the decision that would be taken by the Committee in the proceedings re-opened of the validity holders relied on by the petitioners.

8. Writ petition is disposed of. No costs.

(S.G. DIGE)
JUDGE

(S.V. GANGAPURWALA)
JUDGE

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