

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.1133 OF 2022

Anurag Ajit Gaikwad and Anr.

...Petitioners

Versus

The State of Maharashtra and Ors.

...Respondents

....

Mr. R.K. Mendadkar, with C.K. Bhangoji for the Petitioners.

Mr. Sameer Khedekar for Respondent No.3.

Mrs. P.N. Diwan, AGP for Respondent Nos.1 and 2.

**CORAM : SUNIL B. SHUKRE &
AMIT BORKAR, JJ.**

DATED: 17th FEBRUARY, 2022.

P.C.:-

1. Heard. Rule. Rule is made returnable forthwith. By consent of the parties, matter is heard finally.

2. After carefully going through the impugned order and examining it in the light of arguments submitted by Mr. Mendadkar, learned counsel for the Petitioners and Ms Diwan, learned AGP for the Respondent No.2-Scrutiny Committee, we find that the two documents, which are of pre-constitutional era and which have significant bearing on the claim of the Petitioners as they belonging to Thakar scheduled tribe,

have not been considered by the Scrutiny Committee. In fact, there have also been some other documents which would certainly have their impact on the final result of Scrutiny Committee, and though submitted, they have not been considered by the Scrutiny Committee either. These documents relate to School Leaving Certificates of the Petitioners and also father of the Petitioners. The two documents, which are of pre-constitutional period are also school leaving certificates of Janardan Baburao Gaikwad and Suryakant Shankar Gaikwad, both the relatives of the Petitioners, who are from paternal side. These documents have been created in the year 1939 and 1947 respectively and both of them show their social status as “Hindu -Thakar”. These two documents, being of the pre-constitutional period possess high probative value and therefore could not have been ignored by the Scrutiny Committee.

3. It appears to us that the Scrutiny Committee has been completely swayed away from some entries of the years 1900, 1919, 1932 and 1935 showing the caste of the persons in whose names those entries stood as “Kunbi”, “Marathe”, “Marathe” and “Marathi”. But it is also the contention of the Petitioners that these persons are not the relatives of the Petitioners. It appears to us that even this contention has not been considered by the Scrutiny Committee.

4. In view of the above, we find that the impugned order is bad in law and it, therefore, deserves to be quashed and set aside.

5. The Petition is allowed. The impugned order is hereby quashed and set aside. The matter is remanded back to the Scrutiny Committee for fresh consideration of it in accordance with law. Scrutiny Committee shall render its decision in this matter as expeditiously as possible and preferably within a period of two weeks from the date of appearance of the Petitioners before it. The Petitioners may appear before the Scrutiny Committee on 21/02/2022.

6. All contentions of the parties on merits of the matters are kept open.

(AMIT BORKAR, J.)

(SUNIL B. SHUKRE, J.)