

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11342 OF 2019

Harshal S/o. Rajendra Thakur

...Petitioner

Versus

The State of Maharashtra
Dept. Tribal Development
Thr. Secretary & Anr.

...Respondents

Mr.S.C. Yeramwar for the Petitioner.

Mr.S.L. Babar, AGP, for the Respondent-State.

CORAM : S.V. GANGAPURWALA &
S.M. MODAK, JJ.

DATE : 29 JUNE 2022

P.C:-

. Rule. Rule made returnable forthwith by consent of parties.

2. The caste claim of the Petitioner as belonging to 'Thakur, Scheduled Tribe' is invalidated.

3. The learned counsel for the Petitioner submits that the documents i.e. the school record of the grand father of the Petitioner of the year 1944 records casts as 'Thakur'. The document of the year 1978 in respect of the cousin paternal uncle records casts as 'Thakur'.

NILAM
SANTOSH
KAMBLE

Digitally signed
by NILAM
SANTOSH
KAMBLE
Date: 2022.07.06
10:34:30 +0530

4. The record of the father of the Petitioner of the year 1970 also records casts as 'Thakur Backward'. According to the learned counsel the pre constitutional document relied on has probative value. The learned counsel for the Petitioner submits that affinity test is not the litmus test.

5. Reliance is placed on the judgment of the ***Anand V/s. Committee of Scrutiny and Verification of Tribe Claims & Ors.***¹

6. The learned AGP submits that there is one document of the uncle of the Petitioner of 1978 recording caste as 'Other Backward'. According to the learned AGP the affinity is not proved. The Petitioner does not reside at the place where normally the Thakur Scheduled Tribe persons resides.

7. We have considered the submissions. The vigilance has not found any discrepancy in the document that is the school record of the grant father of the Petitioner of 1944 where the caste is recorded as 'Thakur'. The school record of the uncle of the Petitioner of the year 1978 and the cousin brother and father of the Petitioner records as 'Thakur'.

8. The Apex Court in case of *Anand* (Supra) has held that the affinity test is not the litmus test. Area restriction has been removed.

¹ 2011(6) Mh.L.J. 919.

9. In light of the consistent document showing the caste recorded in the school record of the Petitioner, his grandfather and father as 'Thakur'. We set aside the judgment of the Committee.

10. The Committee shall issue the validity certificate to the Petitioner as 'Thakur, Scheduled Tribe' preferably within two weeks. Rule Accordingly discharged. No costs.

(S.M. MODAK, J.)

(S.V. GANGAPURWALA, J.)