

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 11750 OF 2023

RUTUJA DIPAK WAGH
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Petitioner : Mr. Yeramwar Sushant C.
AGP for Respondents : Mr. S.B. Yawalkar
...

**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 20 SEPTEMBER 2023

PER COURT (PER : SHAILESH P. BRAHME, J) :

1. Heard learned counsel for both the sides finally. The matter is not on board but it is mentioned by learned counsel for the petitioner disclosing urgency as the petitioner aspires to take admission for under graduation. Hence, taken up on production board for final adjudication.
2. The petitioner is assailing the judgment and order dated 13.09.2023, passed by the Scrutiny Committee, invalidating her tribe certificate of 'Thakur' scheduled tribe and confiscating the same. She seeks to rely upon old entry of Brijlal of 1922. She is relying on the order passed by High Court in the matter of Saniket Sambhaji Wagh, allowing his tribe claim. She is also relying on validity certificates of father, uncles and cousin grandfather Sambhaji.
3. Learned AGP has opposed the caste claim of the petitioner. According to him, the Scrutiny Committee has rightly discarded the

school entry of Brijlal Mahadu of 1922. The vigilance enquiry shows that the school record of Brijlal is not inspiring confidence. According to him, the Scrutiny Committee has rightly held that school record of Uttam Mahadu indicates caste as 'Bhat' which is incompatible with the tribe claim of the petitioner. He would submit that the Scrutiny Committee has arrived at plausible conclusion and no interference is called for.

4. Learned AGP has pointed out that the validity certificates of Kunal, Sambhaji, Vijay, Deepak and Smita have been recalled. He would urge to dismiss the petition.

5. We have considered the submissions of the parties. The petitioner seeks to rely upon old school entry of Brijlal Mahadu of the year 1922 indicating tribe as 'Thakur'. The vigilance enquiry was conducted in respect of the school record. The Scrutiny Committee disbelieved the record considering coloured photograph indicating name as Brijlal Mahadu Pa. He was found to be not related to the petitioner. Even if this finding is accepted, we have noticed that there is a consistent record of close relatives of the petitioner namely Dangal, Rajaram, Bhagwan, Shantaram to indicate caste as 'Hindu Thakur', meaning thereby, 'Thakur' scheduled tribe.

6. The school record of Dangal Uttam Thakur grandfather of the petitioner is of 1933, pre-constitutional period. It has greater probative value. It corroborates the claim of the petitioner strongly.

7. Learned AGP has relied on contrary entry of Uttam Mahadu of the year 1928. The petitioner has disowned relationship with Uttam by tendering affidavit-in-reply in paragraph no. 5. His reply is not dealt with by Committee. The Committee committed perversity in relying upon entry of Uttam of 1928. If the oldest entries of Brijlal Mahadu of 1922 and Uttam Mahadu of 1928 are ignored, the next uncontroverted entry is of Dangal of 1933. An entry of Dangal and that of Rajaram, Bhagwan, Shantaram support the tribe claim of the petitioner.

8. The submission of learned AGP that the validity certificates in the family of the petitioner have been recalled, would not detain us from upholding the tribe claim of the petitioner because one of the validity holders has received validity in pursuance of order of High Court.

9. Saniket Sambhaji Wagh has been issued validity certificate in pursuance of order dated 24.09.2019, passed in Writ Petition No. 8830 of 2019. His validity certificate is still intact. We propose to adopt the same course.

10. The Scrutiny Committee committed patent illegality in rejecting the caste claim of the petitioner. We, therefore, pass following order :

ORDER

- i. The Writ Petition is allowed.

ii. The impugned order is quashed and set aside. The respondent-scrutiny committee shall immediately issue certificate of validity to the petitioner of 'Thakur' scheduled tribe.

iii. Since the petitioner is supposed to submit the certificate of validity today itself, we direct the learned A.G.P. in presence of the Law Officer of the Committee, to communicate this decision to the Committee immediately.

iv. Writ Petition is disposed of, accordingly.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]