

Amol

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7211 OF 2023

Sakshi Hanumant Jadhav ...Petitioner
Versus
State of Maharashtra Through Secretary Tribal ...Respondents
Development Dept & Anr

Mr RK Mendadkar, for the Petitioner.
Ms PJ Gavhane, AGP, for the Respondent-State.

CORAM G.S. Patel &
Neela Gokhale, JJ.
DATED: 2nd August 2023

PC:-

1. Rule. Rule made returnable forthwith.

2. The Petitioner, Sakshi Jadhav, assails an order of 30th January 2021 of the 2nd Respondent, the Scheduled Tribe Certificate Scrutiny Committee, Pune Division, invalidating her Tribe Certificate. Sakshi claims to belong to the “Thakar” scheduled tribe.

3. We have with the assistance of Counsel gone through the impugned order.

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4. It is our considered view that the impugned order is unsatisfactory for several reasons. At page 36 of the paperbook, we find a family tree. The names of as many as 16 persons said to be family members are shown in the table at pages 21 and 22. This relates to the school registers or school certificates. Of these, the persons at Sr. Nos. 1 to 7 have entries that are pre-Constitutional ranging from 1926 to 1949. All of them show their tribe as being “Hindu Maratha”. For one entry, the great-grandfather who was a cousin of her great-grandfather, the entry is of “Hindu Maratha Thakar”. In the same table, the entries at Sr. Nos. 8 to 16 are all after 1958 (the earliest) and all show the claim as being “Hindu Thakar”.

5. But these are not certificates produced or relied on by Sakshi at all. She referred to a total of eight certificates, five birth certificates and three death certificates. The five certificates are shown in the table at page 22. Items 1 and 4 show the tribe or caste as “Marathi” but items 2, 3 and 5 show, from birth certificates of 1938, 1945 and 1970, show the tribe as “Thakar”. In regard to the death certificates, two of the three of 1932 and 1945 are shown as “Marathi” and “Maratha” respectively but the one at Sr. No. 2 of a lady named Savitri, who was the grandfather’s female cousin, is shown as “Thakar”.

6. The impugned order then refers at page 27 to two other persons namely, Atul Dattatray Jadhav, a second cousin, and Saraswati Dattatray Jadhav, a female second cousin and the

comment is that their claims were rejected but that the Petitions are pending in the High Court.

7. What is apparent from this is that in the impugned order there is no consideration at all of the school certificates of items 8 to 16 in the first table, the birth certificates at Sr. Nos. 2, 3 and 5 or the death certificate at Sr. No. 2. These have simply been ignored.

8. This renders the order entirely vulnerable for non-consideration of relevant material. The inclusion of two names of Atul and Saraswati at page 27 is equally vulnerable because it takes into account irrelevant factors.

9. Both of these are sufficient grounds to quash and set aside the impugned order. We do not believe it can be sustained. The claim of Sakshi for the “Thakar” scheduled tribe is otherwise established by the other documents and material that Sakshi had produced before the 2nd Respondent Committee.

10. Accordingly, and for these brief reasons the Petition succeeds. Rule is made absolute. The impugned order is quashed and set aside. The 2nd Respondent Committee is directed to forthwith issue a Scheduled Tribe Validity Certificate to Sakshi as belonging to the “Thakar” scheduled tribe. There will be an order in terms of prayer clauses (a) and (b) of the Petition which read thus:

“(a) That this Hon’ble Court be pleased to issue Writ of Certiorari and/ or any other Writ, Order or Direction in the nature of Certiorari thereby quashing and settling aside the impugned judgment and order dated 30.1.2021 passed by

the Respondent No. 2 committee, **Exhibit “A”** to the writ petition, with further direction to Respondent No. 2 committee to issue Certificate of Validity in respect of caste certificate dated 20.2.2020 issued by the Respondent No.3 Competent Authority in favour of petitioner.

(b) That this Hon’ble Court be pleased to hold and declare that the petitioner belongs to Thakar, scheduled tribe community, listed at entry no. 44 of the Second Schedule, Part IX of the Amending Act no. 108 of 1976 and that the caste certificate dated 20.2.2020 issued by the Respondent No.3 Competent Authority in favour of petitioner is valid, legal and subsisting.”

11. The 2nd Respondent will issue the necessary certificate no later than by Tuesday, 8th August 2023. It will act on production of an authenticated copy of this order.

12. The college authorities will act on production of an authenticated copy of this order and allow Sakshi an extended time until 11th August 2023 to produce the Caste Validity Certificate.

(Neela Gokhale, J)

(G. S. Patel, J)