

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 376 OF 2023

Chintamani Sadhu Pawar

.....Petitioner

V/s.

1. The State of Maharashtra

and Ors.

.....Respondents

ALONGWITH
WRIT PETITION NO. 14714 OF 2022

Tushar Chintamani Pawar

.....Petitioner

V/s.

1. The State of Maharashtra

and Ors.

.....Respondents

Mr. Abhijeet N. Pange a/w. Mr. Swapnil R. Chopade, Advocate for the Petitioners.

Mr. B.V. Samant, AGP for State.

CORAM : S.V. GANGAPURWALA, ACTING CJ &
SANDEEP V. MARNE, J.

DATE : 13th APRIL, 2023.

P.C. :

1. **Rule.** Rule made returnable forthwith. With the consent of the parties, taken up for final hearing.

2. The caste claim of the Petitioner as belonging to Thakar Scheduled Tribe is invalidated. Petitioners herein are father and son.

3. The Committee has considered that there are some contra entries and some invalidations of the paternal relatives. It is also observed by the Committee that the Petitioner has failed in the Affinity Test.

4. We have heard the learned Counsel for the Petitioner and the learned AGP for the State.

5. The old documents appear to be of the pre-constitutional era of the year 1926 wherein in the school record, caste is recorded as 'Thakar'. There appears to be contra-entry of the pre-constitutional era wherein caste is recorded as 'Maratha'. Petitioner is the paternal relative of Anand Ravindra Pawar. His claim was also invalidated by this Court. Anand Ravindra Pawar filed Writ Petition No. 7852/2019 wherein the Coordinate Bench on July 17, 2019 set aside the judgment of the Committee and directed the Committee to issue Validity Certificate to him.

6. Similarly, in case of paternal relatives namely, Prakash Sopan Pawar, the claim was invalidated. He also filed Writ Petition bearing No. 1394/2023. The same is allowed by this Court by order dated March 13, 2023. The relationship of the petitioner being the paternal relative and belonging to the same family is not disputed.

7. The Division Bench of this Court in case of **Apoorva Nichale V/s. State of Maharashtra reported in 2010(6) Mh.L.J. 401**, has observed that the factum of Validity Certificate issued to the paternal relative is a relevant fact. The Apex Court in a recent judgment gave a finding that the affinity test is not a litmus test (**Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Versus. State of Maharashtra and Others, reported in (2023) SCC Online 326**).

8. In view of the judgments of the Co-ordinate Bench in case of paternal relatives of the petitioners, directing the Scrutiny Committee to issue Validity Certificate to them, the petitioner is also entitled to the same. The impugned judgment is quashed and set aside. The Scrutiny Committee shall issue Caste Certificate of Thakar Scheduled Tribe to the petitioners within two weeks from today.

9. Petitions are disposed of. Rule made absolute in the above terms.

**NEETA
SHAILESH
SAWANT**

(SANDEEP V. MARNE, J.)

(ACTING CHIEF JUSTICE)

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NEETA SHAILESH
SAWANT

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