

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 15600 OF 2022

Ramesh Namdev Pawar

.. Petitioner

V/s.

The State of Maharashtra, thr.
Its Principal Secretary, Tribal
Development Dept. and Ors.

.. Respondents

...

Mr. Abhineet N. Pange a/w. Mr. Vikas Daund, for the Petitioner.

Mr. R.P. Kadam, AGP for State.

**CORAM : NITIN JAMDAR, &
SANDEEP V. MARNE, JJ.**

Dated : 10 August 2023.

P.C. :

1. Heard learned Counsel for the parties.
2. The Petitioner is challenging the order passed by Respondent no.2-Scheduled Tribe Certificate Scrutiny Committee, Pune dated 2 February 2022 invalidating the Caste Certificate issued to the Petitioner on 28 June 2016 by the Sub-Divisional

Officer, Baramati. The Sub-Divisional Officer, Baramati has issued the Certificate to the Petitioner as belonging to 'Thakar' Scheduled Tribe.

3. The Petitioner is working in the State Reserve Police Force Department in the Reserved Category. His Caste Certificate was sent by the employer for verification. Petitioner submitted certain documents in support of his claim before the Scrutiny Committee. The Vigilance Cell enquiry was carried out and report was submitted on 15 November 2017. The Scrutiny Committee observed that in the entries of the petitioner's relatives prior to 1950 and thereafter in the School Record, Birth and Death Registers, the entries were of Maratha, Hindu-Maratha, Marathi, Bhat, Thakar Maratha (Hindu), Hindu-Thakar, Thakar. The Scrutiny Committee also took into consideration that the Caste Certificate of Petitioner's cousin, Dattatray Rambhau Pawar was invalidated by the Scrutiny Committee on 15 January 2009. Thereafter, Dattatray filed Writ Petition No. 1987 of 2009 which was dismissed by this Court on 22 November 2010 and the Special Leave Petition filed by Dattatray was dismissed on 16 July 2014. Based on this rejection and the opinion of the Scrutiny Committee on the basis of statements recorded by the Vigilance Cell, the threads as belonging to 'Thakar' community were not found. Accordingly the Scrutiny Committee proceeded to pass the impugned order.

4. The learned counsel for the Petitioner has drawn our attention to the orders passed in respect of the Petitioner's relatives and the genealogy placed on record by the Petitioner. Additional compilation of the orders passed in favour of the Petitioner's relatives is also placed on record. The learned counsel for the Petitioner has also relied upon the decision of the Hon'ble Supreme Court in the case of **Maharashtra Adhiwasi Thakur Jamat Swarakshan Samiti Vs. The State of Maharashtra & Ors.**¹ to contend that in case of 'Thakar' community, the affinity test cannot be the sole criteria for examining the caste claim. The learned counsel has also drawn our attention to report of the Vigilance Cell dated 17 November 2021. The learned counsel submits that this report has also not been taken into consideration.

5. As regards the general observations made by the Scrutiny Committee that all the entries in respect of the petitioner's relatives prior to 1950 and thereafter, are not of 'Thakar' Scheduled Tribe but other communities as well, we do not find that this general observation is borne out by the report of the Vigilance Cell Enquiry. The second Vigilance Cell Enquiry Report dated 17 November 2021 is on record. The Petitioner has averred that the same was submitted before the Scrutiny Committee before the hearing concluded on 22 October 2021 and the order was passed on 2 February 2022. *Prima-facie*, the Vigilance Cell Report of 2019 refers to several entries as Hindu-Thakar. None of the entries

1 AIR 2023 S.C.1657

have been dealt with in the impugned order. This Report has been omitted from consideration. Except the general statement that all entries prior to 1950 are pre-constitutional entries, there is no reference to any specific entry. Though the fact that Petitioner's caste claim was invalidated and is challenged is an admitted position, in the compilation of decisions that is placed before us by the Petitioner, the orders have been passed in favour of Petitioner's other relatives. The orders in favour of the Petitioner's relatives and reasoned order of the Scrutiny Committee itself in respect of other relatives of the Petitioner which are on record, also need to be reconciled. It cannot be that in some of the orders, caste of petitioner's relatives is only taken into consideration and not the other orders. This exercise will have to be carried out by the Respondent-Scrutiny Committee and therefore we are of the opinion that the proceedings need to be remanded to the Scrutiny Committee to carry out this exercise.

6. The learned counsel for the Petitioner submits that within three weeks from today, the Petitioner will submit compilation of decisions which according to the petitioner are rendered in case of Petitioner's relatives with the necessary affidavits as per the procedure followed by the Scrutiny Committee.

7. As a result of this discussion, the impugned order dated 2 February 2022 by Scheduled Tribe Certificate Scrutiny

Committee, Pune is quashed and set aside.

8. Caste claim of the Petitioner stands restored to the file of the Scrutiny Committee, Pune.

9. The Petitioner will submit orders in respect of petitioner's relatives as per the rules and procedure alongwith the necessary affidavits, genealogy etc within three weeks from the date of appearance before the Scrutiny Committee.

10. The Petitioner shall appear before the Scrutiny Committee on 4 September 2023. Thereupon the Scrutiny Committee will pass appropriate orders as per law after considering the above mentioned aspects.

11. Writ Petition is accordingly disposed of.

SANDEEP V. MARNE, J.

NITIN JAMDAR, J.

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signed by
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SHAILESH
SAWANT

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