

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2344 OF 2023

Shridhar Namdeo Pawar,

Age about 24 years, Occ. Education

Residing at Post Shirala, Tal.Battis

Shirala, Dist. Sangli.

....Petitioner

Vs.

1. Scheduled Tribe Caste Certificate
Verification Committee,
Pune Division, Pune through its
Member Secretary.

2. The State of Maharashtra
Through the Principal Secretary,
Tribal Development Department,
Mantralaya, Mumbai – 400 032.

3. Sub-Divisional Officer,
Islampur, Tal. Walva,
Dist. Sangli.

4. Sou. Sushila Danchand Ghodawat
Charitable Trust's Sanjay Ghodawat
Polytechnic, Atigre, through its
Office Superintendent, Atigre.

....Respondents

- Mr. S.G. Kudle, for the Petitioner.
- Ms. A.A. Puray, AGP for the Respondent-State.

CORAM : SUNIL B. SHUKRE &
FIRDOSH P. POONIWALLA, JJ

DATE : 26th SEPTEMBER, 2023

ORAL JUDGMENT : {Per : Sunil B. Shukre, J.}

1. Heard. Rule. Rule is made returnable forthwith, by consent of learned counsel for the parties.

2. On going through the impugned order and the documents placed on record, we find that there is an error apparent on the face of the record in the impugned order and this was also the view expressed by this Court earlier when it passed its order on 14.07.2023. In fact by the order dated 14.07.2023, this Bench has already set aside the impugned order and remitted the matter back to Respondent No.1 Committee for consideration afresh at the earliest possible time on merits; but then this Court also granted interim relief to the petitioner and kept the petition pending for final disposal.

3. The time so given to the Scrutiny Committee by this Court has not been utilized by it in any manner and inspite of setting aside of the impugned order, the Scrutiny Committee has not taken any decision upon reconsideration of the claim of the petitioner. In other words, it has not so far passed any fresh order. If this is the approach of the Scrutiny Committee, now this Court would have to correct it by issuing necessary directions to the Scrutiny Committee after consideration of the claim of the petitioner on its own merits.

4. When we consider the claim of the petitioner on its own merits,

the first and foremost thing occurring to us is the kind of probative value attached to oldest documents submitted by the petitioner. In the present case, there are two oldest documents submitted by the petitioner and they are 05.05.1920, which is a mortgage deed standing in the name of Sakharam Babaji Thakar, the great great grandfather of the petitioner and a school entry taken on 15.07.1941 showing one Shankar Ganpatrao Thakar, other grandfather of the petitioner as belonging to "Thakar" community. These two documents, in our considered, view, clinch the issue in favour of the petitioner and we find that there is no doubt whatsoever about the genuineness of the documents. Both these documents show the social status of the petitioner's ancestors as that of "Thakar" community. They being the oldest and clearest documents, are required to be accepted by us as constituting evidence of sterling quality establishing claim of the petitioner that he belongs to "Thakar" Scheduled Tribe which we do. There are, of course, other entries in the name of other relatives of the petitioner showing them to be possessing such social status as Hindu Maratha or Marathe or Hindu Thakar; but all these entries are post oldest entries produced on record by the petitioner and these entries have been taken at a time when the social milieu had undergone significant changes, which made various persons standing at lower order in social stratification arranged in Hindu social organization feign a higher social status although the reality was otherwise. A judicial notice of this position has already been taken by this Court in another matter involving a claim relating to Thakar Scheduled Tribe and we draw support for our said observation from the said case, being *Writ Petition No.10484 of 2023 in the case of Jui Shivaji Sarjerao Vs.*

State of Maharashtra, decided on 14th September, 2023.

5. Then, we also find that there is a validity already existing in the family of the petitioner which stands in favour of father of the petitioner. He has been granted certificate of validity on 12.01.2000 showing that he belongs to Thakar Scheduled Tribe by birth. We are informed that this validity stands even today and if that is so, it only strengthens the case of the petitioner. This validity certificate, in our opinion, leaves no doubt about the claim of the petitioner that he belongs to Thakar Scheduled Tribe. If father of the petitioner is legally declared to be a "Thakar", a Scheduled Tribe, there is no reason why his other family members including the petitioner, bonded together in a patriarchal way within a patrilineal system, should not be identified to be coming from the same scheduled tribe. The petitioner verily deserves the same status, which we are inclined to recognise in him by allowing this petition.

6. In these circumstances, we direct Respondent No.1 to issue Tribe validity certificate to the petitioner that he belongs to Thakar Scheduled Tribe within a period of two weeks from the date of receipt of writ of this Court.

7. Rule is made absolute in the above terms.

8. Petition is disposed of accordingly. No costs.

[FIRDOSH P. POONIWALLA, J.]

[SUNIL B. SHUKRE, J.]