

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.13566 OF 2022

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Prasad S/o Suhas Gaikwad

..Petitioner

Versus

The State of Maharashtra & Ors.

..Respondents

Mr. Sushant C. Yeramwar, for the Petitioner.

Mr. R. P. Kadam, AGP for the Respondents/State.

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

DATE : 30th MARCH, 2023

ORAL ORDER (Per Acting Chief Justice) :-

1. Rule. Rule made returnable forthwith. With the consent of the parties, heard finally.
2. The case of the petitioner is that caste claim of the petitioner, as belonging to “Thakar - Scheduled Tribe”, has been invalidated.
3. Learned counsel for the petitioner submits that the Scrutiny Committee has relied upon the documents of those persons, who are not remotely related to the petitioner. The documents placed on record in support of the claim of the petitioner consistently refer the caste of the petitioner as ‘Thakar’. Learned counsel further submits that Ms. Snehal daughter of Dilip Gaikwad i.e. the real uncle’s daughter and Ms. Pooja another real uncle’s daughter had also applied for validity of their caste claim. Their claim was also invalidated. Ms. Snehal Dilip Gaikwad approached this Court by filing Writ Petition No.8152 of 2019. The same

was allowed vide judgment and order dated 6th August, 2019. Ms. Pooja Dilipkumar Gaikwad filed Writ Petition No.2728 of 2020. The same was allowed by this Court vide order dated 6th October, 2021. The alleged invalidation of caste claim was also part of the subject matter of Ms. Snehal and the contra entries relied by the respondent/Scrutiny Committee of those persons, who are not related to her were considered by this Court while deciding writ petition of Ms. Snehal.

4. Learned AGP submits that on School/Birth and Death entries of petitioner's relatives on paternal sides are that of 'Maratha', 'Marathi Thakar' etc. which are contra entries on record. The petitioner has also failed in affinity test.

5. We have considered the submissions.

6. It is not disputed that Ms. Snehal and Ms. Pooja are the daughters of real paternal uncle of the petitioner. Their claims were also invalidated. In the judgment delivered by this Court on 6th August, 2019 in Writ Petition No.8152 of 2019 filed by Ms. Snehal, division bench of this Court at length considered the documentary evidence on record and thereby set aside the judgment of the Scrutiny Committee and directed the Scrutiny Committee to issue validity certificate to her. All the entries which are subject matter in the present case were subject matter of consideration before the Court in the earlier writ petition.

7. For reference purpose, we may reproduce some of the observations of this Court in Writ Petition No.8152 of 2019 (Ms. Snehal Dilip Gaikwad Vs. Scheduled Tribe Caste Certificate Verification

Committee, Pune Division, Pune & Ors.) as under :-

“5. Petitioner in support of her claim submitted following documents for verification of her Scheduled Tribe Certificate through her father, as required under Rule 11(2) of the Maharashtra Scheduled Tribes (Regulation of Issuance and Verification of) Certificate Rules, 2003;

a) School Leaving Certificate of Janardan Gopal Gaikwad – her father’s paternal uncle;

b) School Leaving Certificate of Vasant Gopalrao Gaikwad, per paternal grandfather;

c) Certificates of Validity issued by the Scheduled Tribe Certificate Scrutiny Committee, Pune, Division to :-

i) Arun Chandrakant Gaikwad

ii) Mangesh Arun Gaikwad

iii) Sanjay Suryakant Gaikwad

iv) Shrikant Mahadeo Gaikwad; certifying all belong to the Thakar Scheduled Tribe.

Petitioner’s father Dilip Vasant Gaikwad filed genealogy tree of family, with affidavit sworn on 02.01.2018. Besides, Vigilance Cell has placed on record genealogy and verification report of school record of petitioner’s blood relatives.

6.

7. Mr. Kudle, Learned counsel for the petitioner invited our attention to the School Leaving Certificate of Vasant Gopalrao Gaikwad, paternal grandfather of the petitioner and School Leaving Certificate of Janardan Gopal Gaikwad (paternal uncle

of petitioner's father). Leaving Certificates show that paternal grandfather of the petitioner was born on 02.04.1937; admitted in the Ahilyabai Prashala Kumtha Naka, Solapur on 20.07.1942 and his religion/caste shown therein as 'Thakar'. The School Leaving Certificate of Janardan Gopal Gaikwad, shows that he belonged to 'Hindu Thakar'; he was admitted in the school of Jilha Parishad at Solapur in May, 1940 and he was born on 18.07.1923. Mr. Kudle submits, the School Leaving Certificates, being pre-constitutional document, has high probative value and as such committee could not have kept it out of consideration.

8. Mr. Kudle has invited our attention to paragraph nos. 7 and 13 of the impugned order, from where it appears that the Vigilance Cell produced the School/ Birth and Death entries of petitioner's relatives, on paternal side. Original records show about eleven documents of the said nature disclose the caste of petitioner's relatives as 'Maratha'; nine documents disclose caste of petitioner's relatives as 'Thakar'; one document as 'Marathi Thakar'; six documents as 'Hindu Thakar'; two documents as 'Hindu non B.C.' and one document as 'Hindu other backward'. We have also confirmed it from records.

9. The committee in paragraph no. 13 concluded that the school records of petitioner's relatives do not, unequivocally prove that petitioner is Thakar Scheduled Tribe. It is submitted by Mr. Kudle that even if some of the documents brought on record by the Vigilance Cell showing, blood relatives of the petitioner are belonging to 'Maratha' Caste or 'Maratha Thakar' or 'Hindu Thakar', but that itself cannot be a valid ground to reject the claim of the petitioner, when there are at least five documents of the pre-constitutional period, wherein entries were recorded prior to independence and as such the Scrutiny Committee was not justified in discarding these entries, which have high probative value.

10.

11. Report of the Vigilance Cell, confirms the genealogy produced by the Petitioner's father. Report also confirms the

details and particulars of the School Leaving Certificate of petitioner's paternal grandfather; being correct. Besides report also confirms that petitioner father's paternal uncle Janardan Gopal Gaikwad, Shivaji Gopal Gaikwad, Mahadeo Gopal Gaikwad, Chandrakant Gopal Gaikwad were born in 1923, 1920, 1934 and 1929 respectively and in the school record their caste was recorded as 'Thakar'.

12. There are Certificates of Validity, issued to Arun Chandrakant Gaikwad, Mangesh Arun Gaikwad, Sanjay Suryakant Gaikwad and Shrikant Mahadeo Gaikwad, who are cousin brothers of petitioner's father.

13. Thus, taking into consideration the evidence and in particular the school records of the petitioner's paternal grandfather(Vasantrao) and that of paternal uncles of petitioner's father, in our view the Committee was not justified in discarding this evidence only on the ground that such other documents of petitioner's relative, relating to school entries collected by the Vigilance Cell show their caste other than the 'Thakar' Tribe. The conclusions recorded in paragraph no. 13 of the impugned order are palpably incorrect in as much as it is quality of evidence and not quantity which is to be weighed.

That for invalidating petitioner's claim, Committee said that school entries of petitioner's blood relatives show their caste other than 'Thakar'. We have perused the record. What we found is as under :-

a) In case of eleven relatives, their entries in the school record show their caste Maratha; out of which nine entries are of relatives without describing their relationship with the petitioner, and remaining two entries are of cousin great-grandfather (1907) and another is of sister of grandfather (1905).

b) The entry 'Maratha Thakar' is in respect of one relative but without describing his relationship with the petitioner. Similarly, as far as the entry 'Hindu Thakar' is concerned,

all are post independence entries. Therefore, the entries relied on by the Caste Scrutiny Committee are not of petitioner's blood relatives. Thus, reliance on this bunch of entries is misplaced. It is a clear case of non appreciation of evidence.

14.

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16.

17. Thus, upon consideration of the facts of the case and evidence on record, in our view, petitioner has proved that she belongs to 'Thakar' Tribe. We therefore quash and set aside the impugned order and hold that the petitioner belongs to 'Thakar' Tribe.”

8. The relationship of the petitioner with those validity holders i.e. Ms. Snehal and Ms. Pooja is not disputed. They are daughters of the petitioner’s uncle.

9. In light of the aforesaid judgment, we follow the same course. The impugned judgment is quashed and set aside.

10. The Scrutiny Committee is directed to issue validity certificate to the petitioner.

11. Rule is made absolute.

12. The writ petition stands disposed of. No costs.

[SANDEEP V. MARNE, J.]

[ACTING CHIEF JUSTICE]