

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 4786 OF 2015**

Nitin Bhagwan Chavan

.....Petitioner

V/s.

State OF Maharashtra, through
its Secretary and Ors.

.....Respondents

**INTERIM APPLICATION NO. 856 OF 2022
IN
WRIT PETITION NO. 4786 OF 2015**

Indian Oil Corporation thr. Executive
Director

....Applicant

V/s.

Nitin Bhagwan Chavan and Ors.

....Respondents

Mr. R.K. Mendadkar, Advocate for the petitioner.

Mr. K.P. Anilkumar a/w. Ms. Priyanka Kumar and Mr. Amit Saple
and Mr. Chinmay Apte, Advocate for the applicant in IA and for
respondent no.4.

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 hearing forthwith.

2. The caste claim of the petitioner belonging to Thakur Scheduled Tribe, is invalidated.

3. We have heard learned AGP and learned Counsel for the respondent.

4. We have also perused the judgment and the documents relied by the authorities.

5. The Scrutiny Committee, it appears, has negated the claim of the petitioner only on the ground that the old school record of the Petitioner, his father, his uncle and grand-father, records the caste either as 'Thakur' or 'Hindu Thakur' but does not record the caste as 'Thakur Schedule Tribe'.

6. It is also not disputed by the Scrutiny Committee or the Vigilance Cell that all the documents relied by the petitioner from the period 1930 to 1976 records caste as 'Thakur'. Not a single contra entry exists.

7. Para-7.1 of the judgment of the Committee reads thus :

"7.1 The documents listed at Sr. No.3, 4, 5, 6, 9, 10, 13, 14, 19 and 20 are the school records in respect of applicant, his father, cousin grand father and uncle, wherein the caste is recorded as Thakur and Hindu Thakur and the said records pertains to period from 1930, 1936, 1954, 1963, 1974 and 1976. The applicant also furnished the birth extract in respect of his cousin grandfather Nimba Namdev Sadashiv Thakur which is listed at Sr. No.8, wherein the caste is recorded as Hindu Thakur this records are pertain to period 1930. The Scrutiny Committee has perused all these documents and found that in all these school records and service record the caste is either recorded as

“Thakur” or “Hindu-Thakur”. There is not a single document shows the caste of applicant as Thakur Schedule Tribe. The same has been considered by the committee. This issue also discussed by the Hon’ble High Court of Judicature at Bombay, Bench at Aurangabad in W/P No. 9001/2013 in case of Aniket Jagalal Thakur Vs. State of Maharashtra and Ors.”

8. The Apex Court in recent judgment in the case of **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Versus. State of Maharashtra and Others, reported in (2023) SCC Online 326)** has held that the Affinity Test is not a litmus test. More particularly, when all the old documents relied by the petitioner of paternal ancestors, record the caste as “Thakur”. In light of the above, impugned judgment of the Committee is quashed and set aside. The Committee shall issue Validity Certificate of ‘Thakur Scheduled Tribe’ to the Petitioner within 15 days.

9. Rule accordingly made absolute. No costs.

10. Petition alongwith Interim Applications stand disposed of.

**NEETA
SHAILESH
SAWANT**

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NEETA SHAILESH
SAWANT

Date: 2023.04.19
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(SANDEEP V. MARNE, J.)

(ACTING CHIEF JUSTICE)