

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5086 OF 2015

Sujita Eknath Pawar
@ Sujata Rajesh Pawar
V/S
State of Maharashtra & Ors.

....Petitioner
....Respondents

...
WITH
INTERIM APPLICATION NO.4066 OF 2021
IN
WRIT PETITION NO.5086 OF 2015

Sujita Eknath Pawar
@ Sujata Rajesh Pawar
IN THE MATTER BETWEEN
Sujita Eknath Pawar
@ Sujata Rajesh Pawar
V/S
State of Maharashtra & Ors.

....Applicant
....Petitioner
....Respondents

...
Mr. Ramchandra K. Mendadkar for the Petitioner/Applicant.
Mrs. N.M. Mehra, AGP for Respondent Nos.1, 2 and 4-State.
Mr. A.S. Rao for Respondent No.3-KDMC.

...
**CORAM: S.V. GANGAPURWALA, ACJ &
SANDEEP V. MARNE, J.**
DATE : 28th APRIL 2023.

P.C.:

1 Rule. Rule made returnable forthwith, with the consent of the parties taken up for final disposal.

2 The caste claim of the Petitioner as belonging to 'Thakur Scheduled Tribe' is invalidated.

3 We have heard the learned Counsel for the Petitioner, the learned AGP for the Respondent-State and the learned Counsels for the Respondent No.3.

4 The Petitioner claimed to 'Thakur Scheduled Tribe'. The caste certificate of the Petitioner was referred to the Committee. The Petitioner placed reliance on following documents:

- I. Original and attested copy of Caste Certificate in respect of applicant [Smt. Sujala Eknath Thakur], issued by Sub Divisional Officer, Ulhasnagar Divisional Officer, District Thane, bearing NO.MAG/Cast/S.T./Sr.No./61/2012, dated 10/4/2012, wherein caste is mentioned as Thakur.
- II. A copy of affidavit, in respect of applicant, showing her genealogy, dated 18/6/2012.
- III. Attested copy of School Leaving Certificate, in respect of applicant, issued by Head Master, Mahanagar Palika Prathamik Marathi Shala, No. 14, Ulhasnagar, Dist. Thane, wherein caste is mentioned as Thakur & date of admission is mentioned as 19/6/1992.
- IV. Attested copy of School Admission Register Extract in respect of applicant issued by Head Mistress, Mahanagar Palika Prathamik Marathi Shala, No. 14, Ulhasnagar, wherein caste is mentioned as Thakur & date of admission is mentioned as 19/6/92.
- V. Attested copy of College Leaving Certificate, in respect of applicant, issued by Principal. Talreja Junior College of Arts,

Science & Commerce, Shala, No. 14, Ulhasnagar Dist. Thane, wherein caste is mentioned as Thakur & date of admission is mentioned as 18/6/2002.

- VI. Attested copy of Domicile Certificate in respect of applicant, dated 1/6/2007, issued by Executive Magistrate, wherein date of birth is mentioned as 20/7/87.
- VII. Attested copy of Domicile Certificate in respect of applicant, dated 9/5/2008, issued by Tahasildar, Kalyan wherein residence of applicant is mentioned as Kalyan.
- VIII. Attested copy of Ration Card in respect of applicant's husband.
- IX. Attested copy of Ration Card in respect of applicant's father.
- X. Attested copy of Rajpatra in respect of applicant, wherein her name Sujata Eaknath Thakur has changed to Sujata Rajesh Pawar.
- XI. Attested copy of Caste Certificate in respect of applicant's Father [Eaknath Raghunath Thakur], issued by Sub Divisional Officer, Amalner Dn. Amalner, District Jalgaon, bearing No.MAG/SR/103/2004, dated 24/3/2004, wherein caste is mentioned as Thakur.
- XII. Attested copy of School Admission Register Extract in respect of applicant's father issued by Head Master, Adarsha Kendriya Purva Prathamik Mulanchi Shala, Lasur, Tal. Chopda wherein caste is mentioned as Thakur & date of admission is mentioned as 1/6/67.
- XIII. Attested copy of School Leaving Certificate, in respect of Applicant's father, issued by Head Master, Adarsha Kendriya Purva Prarthamik Mulanchi Shala, Lasur, Tal. Chopda wherein caste is mentioned as Thakur & date of admission is mentioned as 1/6/67.
- XIV. Attested copy of School Leaving Certificate, in respect of applicant's father, issued by Head Master, M. Gandhi Secondary & Higher Secondary School, Lasur, Tal. Chopda

Dist. Jalgaon, wherein caste is mentioned as Thakur & date of admission is mentioned as 1/6/67.

- XV. Attested copy of 1st Page of Service Book in respect of applicant's father, wherein date of birth is mentioned as 1/6/1967 & caste is mentioned as Thakur.
- XVI. Attested copy of Namuna No. 8 in respect of applicant's father issued by Gram Vikas Adhikari Lasur. Tal. Chopda Dist. Jalgaon.
- XVII. Attested copy of Dakhala in respect of applicant's father, issued by Gram Adhikari, Lasur, Tal. Chopda Dist. Jalgaon, wherein his Permanent residence is mentioned as Lasur, Tal. Chopda Dist. Jalgaon.
- XVIII. Attested copy of Caste Certificate in respect of applicant's father [Eaknath Raghunath Thakur], issued by Sub Divisional Officer, Amalner Dn. Amalner, District, Jalgaon, bearing No.MAG/SR/108/2004, dated 24/3/2004, wherein caste is mentioned as Thakur.
- XIX. Attested copy of School Leaving Certificate, in respect of applicant's uncle, issued by Head Master, Adarsha Kendriya Purva Prathamik Boys School, Lasur, Tal. Chopda Dist. Jalgaon, wherein caste is mentioned as Thakur & date of admission is mentioned as 21/6/71.
- XX. Attested copy of School Admission General Register Extract in respect of applicant's Grandfather issued by Head Master, Adarsha Kendriya Purva Prathamik Boys School, Lasur, Tal. Chopda Dist. Jalgaon, wherein caste is mentioned as Thakur & date of admission is mentioned as 12/6/41.
- XXI. Attested copy of School Leaving Certificate, in respect of applicant's grandfather, issued by Head Master, Adarsha Kendriya Purva Prathamik Boys School, Lasur, Tal. Chopda Dist. 29 Jalgaon, wherein caste is mentioned as Thakur & date of admission is mentioned as 12/6/41.
- XXII. Attested copy of Death Certificate in respect of applicant's grandfather, wherein date of death is mentioned as 26/9/1996.

- XXIII. Attested copy of Namuna No.8, Assessment List Extract in respect of applicant's grandfather, for the year 2002-2005.
- XXIV. Attested copy of School Register Extract in respect of applicant's Great grandfather issued by Head Master, Adarsha Kendriya Purva Prathamik Boys School, Lasur, Tal. Chopda Dist. Jalgaon, wherein caste is mentioned as Thakur & date of admission is mentioned as 17/1/1920.
- XXV. Attested copy of School Leaving Certificate, in respect of applicant's great grandfather, issued by Head Master, Adarsha Kendriya Purva Prathamik Boys School, Lasur, Tal. Chopda Dist. Jalgaon, wherein caste is mentioned as Thakur & date of admission is mentioned as 17/1/1920.
- XXVI. Attested copy of Gaon Namuna No.14, Birth Register Extract in respect of applicant's grandfather, wherein date of birth is mentioned as 23/12/1935.
- XXVII. Attested copy of affidavit, in respect of applicant, dated 28/5/2013, wherein she has given information about genealogy & about affinity.
- XXVIII. A copy of 'Anusuchit Jamat Olakhpatra' issued by Adhyaksha, Adivasi Thakur Jamat Seva Mandal, Bhusaval in respect of applicant's father, wherein his residence is mentioned as Bhusaval, Dist. Jalgaon.
- XXIX. Attested copy of Dakhala dated 16/5/2010 in respect of applicant's father, issued by Sarpanch, Gram Panchayat Lasur, Tal. Chopda, Dist. Jalgaon, wherein residence is mentioned as Lasur, Tal. Chopda, Dist. Jalgaon.
- XXX. Attested copy of Dakhala dated 17/1/2005 in respect of applicant, issued by Police Patil, At Post Lasur, Tal. Chopda, Dist. Jalgaon, wherein residence is mentioned as Lasur, Tal. Chopda, Dist. Jalgaon.
- XXXI. Attested copy of Certificate Dakhala dated 17/1/2005 in respect of applicant, issued by Talathi, Gram Adhikari Lasur, Tal. Chopda Dist. Jalgaon, wherein residence is mentioned as Lasur, Tal. Chopda, Dist. Jalgaon.

XXXII. Attested copy of Certificate Dakhala dated 17/1/2005 in respect of applicant's father, issued by Talathi, Gram Adhikari Lasur, Tal. Chopda, Dist. Jalgaon, wherein residence is mentioned as Lasur, Tal. Chopda, Dist. Jalgaon.

XXXIII. Attested copy of Certificate Dakhala dated 12/9/2001 in respect of applicant's father, issued by Sarpanch, Gram Panchayat Lasur, Tal. Chopda, Dist. Jalgaon, wherein residence is mentioned as Lasur, Tal. Chopda, Dist. Jalgaon.

XXXIV. Attested copy of Dakhala dated 17/1/2005 in respect of applicant's father, issued by Police Patil, At Post Lasur, Tal. Chopda, Dist. Jalgaon, wherein residence is mentioned as Lasur, Tal. Chopda, Dist. Jalgaon."

5 It would appear that not a single contra entry exists in the documentary evidence of the Petitioner. The school record of the great grand-father of the Petitioner of the year 1920 also records the caste as 'Thakur'. The pre-constitutional era document would have more probative value.

6 The Committee has basically relied upon the Affinity test. The Affinity test is not a litmus test as has been considered by the Apex Court in in the recent judgment in the case of **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti vs. State of Maharashtra and others**, 2023 SCC OnLine SC 326.

7 It would appear that the matter was earlier also before this Court. This Court had remitted the matter.

8 In light of the fact that not a single contra entry exists and the recent judgment of the Supreme Court in case of **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti** (supra), the impugned judgment is quashed and set aside. The Committee shall issue Caste Validity Certificate to the Petitioner of 'Thakur Scheduled Tribe' within three weeks.

9 Rule made absolute accordingly. The Writ Petition is disposed of. No costs.

10 The Interim Application does not survive. The same also stands disposed of.

(SANDEEP V. MARNE, J.)

(ACTING CHIEF JUSTICE)

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signed by
SUDARSHAN
RAJALINGAM
KATKAM
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