



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

WRIT PETITION NO.10484 OF 2023

Jui Shivaji Sarjerao	]	
Minor, Occ: Student, through Natural	]	
and Legal guardian Father – Shri Shivaji	]	
Sarjerao, residing at Surve No.44,	]	
Hanumant Nagar, Paud Road, Near	]	
Saibaba Mandir, Tal. Pune City	]	
Dist. Pune, Pune – 411 038.	]	.. Petitioner.
v/s.		
1. State of Maharashtra	]	
through its Secretary, Tribal	]	
Development Department,	]	
Mantralaya, Mumbai 400 032.	]	
2 Scheduled Tribe Certificate	]	
Scrutiny Committee, Pune	]	
Division, Pune, through its	]	
Member Secretary, having its	]	
Officer at 5 th Floor, C Wing, Kapil	]	
Tower, Pune, District Pune	]	.. Respondents.

Mr. R. K. Mendadkar with Ms. Komal Gaikwad, for the Petitioner.
Mr. V. M. Mali, AGP for Respondent-State.

**CORAM: SUNIL B. SHUKRE &
FIRDOSH P. POONIWALLA, JJ.**
DATED : 14th SEPTEMBER, 2023.

ORAL JUDGMENT (Per SUNIL B. SHUKRE, J.):

Heard.

2 **RULE.** Rule made returnable forthwith and with the consent of the parties, heard finally at the admission stage.

3 We find there is an entry dated 5th June, 1905 standing in the name of Shambhurao Sarjerao, the great grand father of the Petitioner, showing him to be a person belonging to Thakar Community. There have been other entries of the years 1927, 1929 and 1940, standing in the names of other ancestors of the Petitioner, showing them to be all belonging to Thakar Community. These entries standing in the name of Thakar Community, are very old and have not been doubted for their genuineness. The relatives in whose names these entries stand have also not been found to be the persons not being in the relationship with the Petitioner from the paternal side. Therefore, these entries have to be accepted as evidence of sterling quality of the fact that ancestors of the Petitioner from the paternal side belonged to Thakar Community, unless there are other contradictory entries.

4 In this case, however, there are some contradictory entries which show the social status of the persons in whose names these entries stand as of some other community. These contradictory entries create a difficulty and also create a doubt about the genuineness of the social status claimed by the Petitioner. But, we must understand that these entries being contradictory to each other, would not have the effect of cancelling each other but would have the effect that in a given set of circumstances, only one set of them could be true and the other set of them would be untrue. So, we have to take re-course to some proper selection method for picking up the true entries and discarding the untrue entries.

5 The above referred discussion gives rise to a question whether only those entries which show ancestors of the Petitioner as of *Thakar*

Tribe' should be selected or those entries which show ancestors of the Petitioner as having social status as '*Maratha*' or '*Hindu Thakar*' should be selected?. We are of the view that the conflict between these two sets of entries can be resolved by taking into consideration the oldest entry amongst them for the reason that the oldest entries have been seen by Courts, as a tool of appreciation of evidence, to be inspiring more confidence, as these entries are recorded in the distant past and having been removed from the more manipulative modern times have a greater possibility of retaining purity and presenting truth. Oldest entry as stated earlier, is of 5th June, 1905 and it shows Shambhurao Sarjerao, to be a person belonging to '*Thakar*' Scheduled tribe.

6 We find that there is neither any dispute nor any doubt about the above referred oldest entry. There is, however, one more entry of the same date, the date of 5th June, 1905, standing in the name of same person, Shambhurao Sarjerao, showing him to be a person of '*Maratha*' caste. But, if, we consider the Registration Book Number, we find that the second entry of conflicting nature is an entry subsequently taken. This can be seen from the Registration Books mentioned in these entries and, therefore, the first entry which we have referred to above leaves no doubt that the said person belonged to '*Thakar*' *Scheduled tribe*. The entry subsequently taken in another book of the same date, appears to be taken by mistake and similar appears to be the nature of the other entries showing the same person and other relatives as '*Maratha*' or '*Hindu Thakar*' caste.

7 In case of '*Thakar*' Scheduled tribe, we must say, there is uniqueness in the sense that it is a tribe not so commonly found anywhere

and every where in the State of Maharashtra. It was originally confined to hilly areas of Maharashtra and thus, came from a particular geographical area of Maharashtra, though, now, because of availability of convenient means of transport and employment at other places, there have been migrations amongst Thakar tribe and now they can be seen scattered in many parts of Maharashtra. Even then, their uniqueness is not compromised in the sense that there is no other community or caste which goes by the same surname as '*Thakar*'. Therefore, whenever very old entries in school and other records are found to be of '*Thakar*' community, they are required to be understood as referring to a '*Thakar*' tribal group. But, in the pre-constitutional period, it so happened that there was some sense of lowliness and inferiority attached to a tribal group and there was a feeling of pride and privilege attached to castes considered to be highly placed in the hierarchical order of Hindu Social Organization, which made persons belonging to various tribal groups and placed lowly in Hindu caste system feign their identity as something akin to highly placed castes or social groups or religions by hiding their real identity and that is why we find some entries in documents of pre-constitutional period, in many cases, as describing the caste or community or tribal group of a person as something higher or near the higher ones in the Hindu Social Order, as for example - '*Maratha*' or '*Hindu Thakar*' and so on. Such entries with prefixes or suffixes added would be found more in the later decades of the period from 1900 to 1950. Therefore, while appreciating contradictory entries, Courts are also required to be conscious of the social milieu prevailing at the time when the entries were made in the school records and other records. This is the reason why the Courts would attach higher value to an entry which is oldest in point of

time. Here in this case, the oldest entry unequivocally shows the social status of ancestors of the Petitioner as that of '*Thakar*' which is a tribal group. This entry is also supported by some other entries of the years 1927, 1929 and 1940. The other entries of contradictory nature available on record, we find, are in later point of time qua the oldest entry and so they would have to be discarded as not showing the true picture about the social status of the ancestors of the Petitioner and we accordingly discard them.

8 Having appreciated the documentary evidence available on record, in the manner done by us as above, we are of the view that the Petitioner has reasonably established her claim that she belongs to '*Thakar*' Scheduled tribe and, therefore, we find that she is entitled to be granted tribe validity certificate to that effect.

9 The aspects discussed herein above, have not been considered by the Scrutiny Committee and, therefore, we see that there is an erroneous order passed by the Scrutiny Committee which requires interference from this Court.

10 In the result, the Petition is allowed. The impugned order is hereby quashed and set aside. Respondent No.2 is directed to grant validity certificate to the Petitioner as she belonging to '*Thakar*' Scheduled tribe within a period of two weeks from the date of the order.

11 We make it clear that if any benefit on the basis of reservation in academic field is to be availed of by the Petitioner, she shall be permitted to avail of the same on the basis of authenticated copy of this order till the time tribe validity certificate is issued to her.

12 Rule made absolute in the above terms. No order as to costs.

Parties to act on an authenticated copy of this order.

(FIRDOSH P POONTWALLA,J.)

(SUNIL B. SHUKRE,J.)