

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11656 OF 2023

Atharv Manohar Bhandekar (Minor),

Through His Father/Guardian

Manohar Baban Bhadekar,

Age : 17 years, Occu.Education,

R/o. Pandharinath Complex, Flat No.2B Wing,

Shivane, Pune, Tq and Dist.Pune – 413 105.

...Petitioner.

Vs.

1. The State of Maharashtra,

Through its Principal Secretary,

Tribal Development Department,

Mantralay, Mumbai.

2. The Schedule Tribe Caste Certificate

Verification Committee,

Pune Division, Pune.

.. Respondents

- Mr. Abhineet N. Pange i/b. Mr. Vikas Daund, for the Petitioner.
- Ms. A.A. Purav, AGP for Respondent Nos.1 & 2–State.

CORAM : SUNIL B. SHUKRE &

FIRDOSH P. POONIWALLA, JJ

DATE : 15th SEPTEMBER, 2023

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

1. Rule made returnable forthwith. Heard finally by consent of the

learned counsel for the respective parties.

2. Learned counsel for the petitioner seeks time to file rejoinder in the matter. However, considering the reasons stated in the impugned order and the urgency expressed by the learned counsel for the petitioner, it may not be proper to wait for the reply of the respondents. This is more so when there would be practically nothing left for the Scrutiny Committee to say anything about the impugned order other than what it has already said by giving the reasons in the impugned order. Therefore, we do not find that reply of the Scrutiny Committee is necessary and we are of the view that this petition can be decided by merely considering the correctness or otherwise of the reasons stated in the impugned order passed by the Scrutiny Committee.

3. In the present case, there is one validity already existing in the family of the petitioner. That validity has been granted to one Swati, paternal aunt of the petitioner showing that she is a person who belongs to “Thakar” Scheduled Tribe. This validity has not been so far cancelled and it is stated in the impugned order that the show-cause notice for cancellation of the same is contemplated. If any such show-cause notice has been issued or would be issued in future, the proceedings initiated or to be initiated thereupon would take their own time. It is also not certain at this stage as to whether or not those proceedings would be valid or not and if they are held to be valid and within jurisdiction, it is still uncertain as to what would be the fate of the whole proceedings.

4. We have a long developed body of law, which tells us that as long

as validity certificate granted to a paternal family member exists, it constitutes a conclusive proof of the social status of that person to whom the validity certificate is issued. In families which are governed by patriarchal system, all the members of the families take the same caste as that of the common ancestor. In such families there would not be any members who would have different castes at the same time. Applying this logic, this Court in several cases has observed that a validity certificate issued to a blood relative from the paternal side would serve as a strong and valid proof for establishing the claim that such person belongs to same caste which is shown in the validity certificate granted to the blood relative.

5. The above referred law has been discussed in a recent case decided by us on *14th September, 2023 in Writ Petition No.10759 of 2023 in Tejashree Mangilal Dambale Vs. The Scheduled Tribe Certificate & Ors.* The facts of this case are similar to the facts of the present case, and therefore, also for the reasons stated hereinabove, this petition deserves to be allowed for the same reasons and in similar fashion.

6. In the result, the petition is allowed. The impugned order is quashed and set aside.

7. We direct Respondent No.2 to issue validity certificate to the petitioner that she belongs to “Thakar” Scheduled Tribe on condition that the validity certificate being issued to the petitioner shall be subject to the outcome of the proceedings initiated or to be initiated upon show-cause notice or to be issued to Swati Chandrakant Bhadekar within a period of two weeks from the date of the order.

8. For the purpose of admission to Educational Course, this order

shall be accepted as validity certificate granted to the petitioner, till the time, the validity certificate, as directed hereinafter, is issued to the petitioner by Respondent No.2.

9. Rule is made absolute in the above terms.

10. Writ Petition is disposed of. No costs.

[FIRDOSH P. POONIWALLA, J.]

[SUNIL B. SHUKRE, J.]