

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

WRIT PETITION NO. 9897 OF 2024

Gaurav Namdeo Pawar

... Petitioner

V/s.

Scheduled Tribe Caste Certificate
Verification Committee and Ors.

... Respondents

Mr. S.G. Kudle (through V.C.) for the Petitioner
Mr. S.H. Kankal, AGP for the Respondent - State
Ms. Pallavi Shelke, Senior Research Officer present

***CORAM : NITIN JAMDAR &
M.M. SATHAYE, JJ.***

DATE : 22 JULY 2024

P.C. :-

Heard the learned Counsel for the parties. Taken up for disposal.

2. The Petitioner has challenged the order passed by the Respondent No.1 Scheduled Tribe Caste Certificate Verification Committee dated 3 July 2024 invalidating the caste certificate issued to the Petitioner.

3. The Petitioner had applied for and was granted a caste certificate by the Respondent No. 4 - Competent Authority as

belonging to Thakar (Scheduled Tribe). The Petitioner is a student who desirous for applying to the seat in reserved category. His caste certificate was sent to the Scrutiny Committee for verification by the Educational Institute.

4. While the caste verification was pending before the Scrutiny Committee, the Petitioner had filed a Writ Petition No. 5977 of 2024 directly in this Court seeking a writ of mandamus to the Respondents to issue Caste Validity Certificate, which was disposed of by the following order :-

“ The Petitioner is seeking a direction to issue a caste validity certificate to the Petitioner. This direction is sought on the ground that the Petitioner’s father and brother have already been granted validity certificates. This may be a position, but that does not mean that this Court without the process of verification being undertaken by the Scrutiny Committee can directly issue a validity certificate to the Petitioner. However, the prayer of the Petitioner that since the Petitioner is a student and that there are validity certificates issued to his family members, the prayer made to direct the Scrutiny Committee to decide the caste claim at the earliest, is justified.

2. The learned AGP states that the caste claim of the Petitioner will be decided by 30 June 2024. The learned AGP, however, points out that even assuming that the Petitioner takes admission in the reserved category based on the caste certificate, time is granted by the Education Authorities normally to get validity certificate if the claim is pending. Since a categorical

statement is made before us by the learned AGP, on instructions, that the caste claim of the Petitioner would be decided by 30 June 2024, we dispose of the petition accepting the statement. It is open to the Petitioner to inform the Education Authorities of this order in case the question of providing validity certificate arises.

3. Writ Petition is accordingly disposed of.

4. The Petitioner will cooperate with the Scrutiny Committee.”

5. The order of the Scrutiny Committee shows that a Vigilance Cell enquiry was carried out as per Maharashtra Scheduled Caste, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification) of Caste Certificate Act, 2000 Maharashtra Scheduled Tribes (Regulation of Issuance and Verification of) Certificate Rules, 2003 and report was submitted on 22 May 2021. The Scrutiny Committee thereafter examined the records in respect of the Petitioner's relatives and also whether the Petitioner showed affinity to the Thakar Tribe. Thereafter, the Scrutiny Committee then passed the impugned order dated 3 July 2024 invalidating the caste certificate of the Petitioner as belonging to Thakar Scheduled Tribe.

6. The learned Counsel for the Petitioner submitted that in the case of the Petitioner's father Namdeo Dinkar Pawar and brother

Shridhar Namdeo Pawar, the validity certificates have been issued and there is no reason why a separate view needs to be taken. The learned Counsel for the Petitioner submitted that the impugned order has created a position where the Petitioner now is shown to belong to a different caste than his father and brother. The learned Counsel submitted that the validity certificate is necessary for the Petitioner as the Petitioner is applying for a seat in the reserved category and if a validity certificate is not given, the Petitioner will lose the seat.

7. When this Petition came up on board on 19 July 2024, the learned AGP had taken time to take instructions as we had pointed out that the Petitioner's father and brother have been issued validity certificates. The learned AGP on instructions of the Officer present submitted that the Scrutiny Committee is in the process of challenging the orders passed in favour of the Petitioner's relatives and appropriate orders be passed.

8. The Petitioner's father - Namdeo was issued a validity certificate on 12 June 2000. This validity certificate is not cancelled and is valid till date. A notice was issued to the Petitioner's father which notice is now the subject matter of Writ Petition No. 2720 of 2022 and the Petition is pending. As regards the Petitioner's brother Shridhar, the Scrutiny Committee by order dated 2 February 2023 had invalidated the Caste Certificate. The Petitioner's brother - Shridhar filed a Writ Petition No. 2344 of 2023. This Writ Petition

was allowed by order dated 26 September 2023 and the Scrutiny Committee was directed to issue Caste Validity Certificate and the same has been issued.

9. In the impugned order the above orders are acknowledged but the Scrutiny Committee, despite the order of the High Court in Writ Petition No. 2344 of 2023, has commented on the merits of the order and has stated that the order would be challenged. As to whether the Special Leave Petition is actually filed is not stated. The order passed by the Division Bench in respect of Shridhar dated 26 September 2023 is still not challenged for almost a year. The Scrutiny Committee has gone to the extent of even criticising the decision of this Court in the case of Shridhar. In this case the denial of the validity certificate to the Petitioner is entirely arbitrary. The learned Counsel for the Petitioner therefore is right in contending that the conduct of the Scrutiny Committee has created an anomalous position where the father, real brother are shown belong to different caste. As regards the area restrictions and the affinity test, the decision of the Hon'ble Supreme Court in the case of *Maharashtra Adiwasī Thakur Jamat Swarakshan Samiti vs. The State of Maharashtra and Ors.*¹ has concluded the issue against the Scrutiny Committee. Yet, the Scrutiny Committee has not made any reference to the said decision of the Hon'ble Supreme Court. We are constrained to issue this direction since the Petitioner will require

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a caste validity certificate for admission in the reserved category and therefore, the balance of convenience is also in favour of the Petitioner.

10. According to us, therefore, the case is made out to set aside the impugned order and to direct the Respondent – Scrutiny Committee to issue validity certificate to the Petitioner.

11. Accordingly, the Writ Petition is allowed. The impugned order dated 3 July 2024 is quashed and set aside. The Respondent – Scrutiny Committee will issue the validity certificate to the Petitioner as sought for within a period of one week.

12. We however place two riders. In case the Respondent – Scrutiny Committee files a proceedings to challenge the order in case of Shridhar the validity certificate issued to the Petitioner will be subject to the outcome of those proceedings. The Petitioner is also put to notice of the legal effect of Section 10 of the Maharashtra Scheduled Caste, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification) of Caste Certificate Act, 2000 and the law laid down by the Hon'ble Supreme Court in the case of *Chairman and Managing Director,*

Food Corporation of India & Ors. vs. Jagdish Balaram Bahira and Ors.².

M.M. SATHAYE, J.

NITIN JAMDAR, J.

JYOTI
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PAWAR

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by JYOTI
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