

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO. 10675 OF 2017

Pramod Dhondiram Gaikwad and others. ... Petitioners.

V/s.

State of Maharashtra and others. ... Respondents.

WITH

WRIT PETITION NO. 2869 OF 2018

Vishwaraj Shankar Gaikwad and another. ... Petitioners.

V/s.

State of Maharashtra and others. ... Respondents.

Mr.R.K.Mendadkar for the Petitioners in both the petitions.

Ms.Nisha Mehra, AGP for the Respondent Nos.1, 2 and 4 in WP-10675/2017 and Respondent Nos.1 to 3 in WP-2869/2018.

Ms.Pinky M. Bhansali for Respondent No.3 (MSRTC) in WP-10675/2017 (through V.C.)

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

DATE : 5 August 2024.

P.C. :

The Petitioners in this petition are challenging the order dated 21 June 2017 passed by the Caste Verification Scrutiny Committee invalidating their caste certificates as belonging to

Thakar Scheduled Tribe. The Respondent- Scrutiny Committee by the impugned order has rejected the caste certificates of Vishwaraj Shankar Gaikwad; Shankar Dhondiram Gaikwad; Pramod Dhondiram Gaikwad; Shivraj Dhananjay Gaikwad; and Dhananjay Dhondiram Gaikwad. Shankar, Pramod and Dhananjay are the Petitioners in Writ Petition No.10675/2017 and Vishwaraj and Shivraj are the Petitioner in Writ Petition No.2869/2018. Shankar, Pramod and Dhananjay are working with the Respondent-Maharashtra State Road Transport Corporation. Vishwaraj and Shivraj are the students and they were desirous of taking education under the reserved category.

2. Since the Petitioners wanted to take benefits extended to the Scheduled Tribe community, the Petitioners applied for caste certificates as belonging to Thakar Schedule Tribe and the same were granted. Thereafter the caste certificates were sent for verification to the Scrutiny Committee. Since all the Petitioners were related by blood, the Scrutiny Committee conducted common proceedings. Vigilance Cell enquiry was ordered of which report was submitted with copy to the Petitioners. After examining the evidence, the Scrutiny Committee invalidated the caste certificates.

3. The Petitioners have filed an additional affidavit placing on record the decision of the Division Bench in the case of *Bhimrao Dnyandeo Gaikwad v. The State of Maharashtra*¹. We have

¹ Writ Petition No.1390/2023 decided on 25 April 2023.

perused the decision in the case of *Bhimrao Dnyandeo Gaikwad*. The Division Bench in the said decision examined all the evidence which was common case of Bhimrao as well as the present Petitioners. There was also a reference in the order impugned therein to the record of the Petitioners as paternal cousins. The Division Bench by the order dated 25 April 2023 allowed the petition and set aside the impugned order in the case of Bhimrao Gaikwad and directed that validity certificate should be issued.

4. Therefore, when the present petitions came up on board on 8 January 2024, the following order came to be passed:

“ The learned Counsel for the Petitioners has relied upon the order passed by the Division Bench of this Court in the case of Bhimrao Dnyandeo Gaikwad Vs. The State of Maharashtra and Ors. (Civil Writ Petition No. 1390 of 2023 dated 25 April 2023). By this order, the Division Bench has directed the Committee to issue validity certificate to the Petitioner therein, that is, Bhimrao Dnyandeo Gaikwad as belonging to Thakar, Scheduled Tribe. In the list of documents reproduced in the said order, the name of Petitioner- Dhananjay Dhondiram Gaikwad appears with entry in the record as Hindu Thakar.

2. The learned Counsel for the Petitioners states that the documents produced before the Scrutiny Committee in the Petitioners' case by the Vigilance Cell included the school record of the father of Bhimrao Dnyandeo Gaikwad, that is, Dnyandeo Sonba Gaikwad wherein the caste is shown as Hindu Thakar. The learned Counsel for the Petitioners states that Petitioner No.2 – Dhananjay Dhondiram Gaikwad in Writ Petition No. 10675 of 2017 has filed additional affidavit dated 10 October 2023. The learned AGP seeks time to file reply as to the additional affidavit filed by Petitioner No.2 as

to why in light of above stated facts, the relief sought for by the Petitioners should not be granted.

3. *Stand over to 22 February 2024.*

4. *If no reply is filed by the Respondent- State to counter the additional affidavit filed by Petitioner No.2- Dhananjay Dhondiram Gaikwad, the Court will proceed on the basis of assertion made by the Petitioners and pass appropriate orders.”*

5. Thereafter, even though time was granted to file reply, no steps were taken by the State. Further time was granted to file reply upon costs. The reply affidavit is filed by one Manohar Chendu Memane, Research Officer of the Scrutiny Committee. In this affidavit, the deponent has referred to the additional affidavit filed by the Petitioners and the order passed by the Division Bench in the case of *Bhimrao Dnyandeo Gaikwad*. The stand taken by the Research Officer is to the effect that the aforesaid order passed by the Division Bench in the case of *Bhimrao Gaikwad* is not correct and, therefore, the Scrutiny Committee has side-stepped the said order to address the issue on merits. With the Division Bench order dated 25 April 2023 holding the field since more than a year, without the Respondent- State making any efforts to challenge the same, the stand taken by the Respondent- Scrutiny Committee in the additional affidavit is contemptuous.

6. There is no dispute before us that Bhimrao Gaikwad is related to the Petitioners by blood. The Scrutiny Committee itself

had clubbed all the claims together with an observation that the caste in the family would be same amongst all. Therefore, we had called upon the learned AGP as to why the order similar to one passed in the case of *Bhimrao Gaikwad* should not be passed in the present case. The learned AGP states that it is correct that the order passed by the Division Bench in the case of *Bhimrao Dnyandeo Gaikwad* is not challenged but the Scrutiny Committee is now considering whether to challenge the said order. This is a mere statement. No decision is yet taken by the State to challenge the order passed in the case of *Bhimrao Dnyandeo Gaikwad*.

7. Therefore, as on today, there is no impediment to issue a direction in favour of the Petitioners to maintain consistency within the family. Accordingly, a case is made out to set aside the impugned order and to direct the Respondent- Scrutiny Committee to issue validity certificate to the Petitioners.

8. Since we are proceeding to pass the order on the basis of the order passed in the case of *Bhimrao Dnyandeo Gaikwad*, we need to place two riders. First, that the validity certificates issued to the Petitioners would be subject to the challenge of the State to the decision of this Court in the case of *Bhimrao Dnyandeo Gaikwad*. Second, the Petitioners will not claim any equity in light 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.

9. Both the writ petitions are allowed. The impugned order dated 21 June 2017 is quashed and set aside. The Scrutiny Committee will issue the validity certificates to the Petitioners as sought for within a period of four weeks.

10. In case the Respondent- Scrutiny Committee files proceedings to challenge the order in the case of *Bhimrao Dnyandeo Gaikwad*, the validity certificates issued to the Petitioners will be subject to the outcome of those proceedings. The Petitioners are also put on notice of the legal effect of section 10 of the Act of 2000 and the law laid down by the Hon'ble Supreme Court in the case of *Chairman and Managing Director, Food Corporation of India and others v. Jagdish Balaram Bahira and others*.

(M.M. SATHAYE, J.)

(NITIN JAMDAR, J.)