

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 261 OF 2024

Chetashree d/o. Jeetendra Thakur ... Petitioner

versus

The State of Maharashtra

Department of Tribal Development & Anr. ... Respondents

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Mr.Sahil Chaudhari i/b. Mr.Sushant Yeramwar for the Petitioner.

Ms.R.A.Salunkhe, AGP for the Respondents -State.

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

DATE : 9 JANUARY 2024

P.C.:

Rule. Rule made returnable forthwith. The Respondents waive service. Taken up for disposal.

2. The Petitioner has challenged the order dated 20 March 2023 passed by Respondent No.2-the Scrutiny Committee invalidating the caste certificate issued to the Petitioner by the Sub Divisional Officer (Rev.), Kudal, District- Sindhudurg on 12 August 2014 as belonging to Thakar- Scheduled Tribe.

3. The caste claim of the Petitioner was referred to Respondent No.2- the Scrutiny Committee through the Civil Surgeon, Sindhudurg while the Petitioner was prosecuting the studies in GNM Nursing Course. The Petitioner submitted the documentary evidence in support of the Petitioner's caste claim before the Scrutiny Committee. The Scrutiny Committee directed the Vigilance Cell to carry out an enquiry. The enquiry was carried out by the Vigilance Cell and the report was submitted. The Petitioner was given a copy of the Vigilance Cell Report. Thereafter, the Scrutiny Committee gave an opportunity to the Petitioner and passed the impugned order on 20 March 2023 invalidating the caste claim of the Petitioner.

4. Before the Scrutiny Committee, the Petitioner had submitted the documents of her grandfather Shantaram Raoji Thakar of the year 1950 and 7/12 extract of the land belonging to Petitioner's father. The Petitioner also relied upon the certificate of validity issued in favour of the Petitioner. The Scrutiny Committee considered the evidence on record. The Scrutiny Committee emphasized that the school record in respect of the Petitioner's cousin grandfathers Vijay Raoji Thakar and Anant Raoji Thakar show the entries as Maratha. The Scrutiny Committee made these two entries as a basis for further analysis. Then, the Scrutiny Committee referred to the traditional occupation, surnames, rites and rituals of the community. The Scrutiny Committee concluded that the evidence on record does not support the Petitioner's caste

claim and the Petitioner has failed to establish her affinity to Thakar -Scheduled Tribe.

5. As regards the affinity test being made a basis for rejection of the caste claim, the Petitioner has relied upon a recent decision of the Hon'ble Supreme Court in the case of *Mah. Adiwasi Thakur Jamat Swarakshan Samiti v. The State of Maharashtra & Ors.*¹ In this decision, the Hon'ble Supreme Court has observed that the affinity test cannot be made the sole basis for deciding the caste claim of the candidate. On merits of the Petitioner's caste claim, we find no consideration whatsoever of the evidence that is in support of the Petitioner. There is no discussion as to whether the entries in the revenue records concerning the Petitioner's family members of the year 1950 are genuine or otherwise. These records are removed from consideration. This approach of the Scrutiny Committee is not correct. If there is any material in support of the Claimant, the same also needs to be scrutinized by the Scrutiny Committee along with the evidence which is contrary. It is not proper approach to remove the evidence in support of the candidate altogether from consideration. Therefore, the decision making by the Scrutiny Committee is vitiated.

6. As a consequence, the impugned order dated 20 March 2023 passed by Respondent No.2-Scrutiny Committee is quashed and set aside. Proceedings are restored to the file. After considering the law

¹ Civil Appeal No. 2502 of 2022 dated 24 March 2023

laid down by this Court and the Hon'ble Supreme Court, the Scrutiny Committee will consider the proceedings on their own merits. The Petitioner will appear before the Scrutiny Committee on 29 January 2024. Thereupon the Scrutiny Committee will set up a timetable for disposal of the proceedings.

7. Since the remand is necessitated because of faulty approach adopted by the Scrutiny Committee, the Scrutiny Committee will decide the caste claim of the Petitioner on its own merits within a period of twelve weeks from the date the Petitioner appears before the Scrutiny Committee.

8. Rule is made absolute in above terms.

9. The writ petition is accordingly disposed of.

(M.M.SATHAYE, J.)

(NITIN JAMDAR, J.)