

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO. 9336 OF 2013

Shri Sanjay S/o Krushna Thakur. ... Petitioner.

V/s.

The State of Maharashtra and others. ... Respondents.

Mr.Chetan Chaudhari i/b. Anil S. Golegaonkar
for the Petitioner (on VC).

Mr.V.M. Mali, AGP for the Respondent- State.

SANJAY
KASHINATH
NANOSKAR

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

DATE : 11 March 2024.

P.C. :

Heard the learned counsel for the parties. Taken for disposal.

2. This petition challenges the order passed by Respondent No.2- Scheduled Tribe Certificates Scrutiny Committee, Nashik dated 19 September 2013 invalidating the caste certificate issued to the Petitioner as Thakur- Scheduled Tribe.

3. The Petitioner was working with Respondent No.4- State Reserve Police Force, Aurangabad as Armed Police Constable. He was granted caste certificate as belonging to Thakur- Scheduled

Tribe by the Sub Divisional Officer, Kalwan, District- Nashik on 21 January 2004. The caste certificate was referred to the Scrutiny Committee for verification. Before the Scrutiny Committee, the Petitioner submitted certain documents. The Scrutiny Committee directed enquiry to be conducted through Vigilance Cell. Enquiry report was submitted. The Scrutiny Committee examined the evidence produced by the Petitioner and the Vigilance Cell and after discussing the evidence and the fact that the Petitioner has failed to show his affinity test to Thakur- Scheduled Tribe, concluded as under:

“9. In the light of above facts, the Scrutiny Committee has come to the conclusion that though in the school records of applicant, his father and grand father and though in the birth extract of applicant's grand father the caste is recorded as "Hindu Thakur" and "Thakur", the applicant has failed to fit himself in the entry appeared at Sr.No.44 i.e. Thakur, Scheduled Tribe. The applicant has failed to establish his affinity and ethnic linkage towards the Thakur, Scheduled Tribe appeared at Sr.No.44. Therefore, the claim of the applicant, Thakur Sanjay Krusha as belonging to Thakur, Scheduled Tribe does not sustain and the same is held INVALID. The Caste Certificate issued to applicant by the Sub Divisional Officer, Kalwan Sub Division, Kalwan, Dist. Nashik bearing No. Bag./0042/2004 dated 21.01.2004 is hereby cancelled and confiscated.”

Therefore, primarily reasoning on which the Scrutiny Committee has held against the Petitioner is failure of the Petitioner to show the ethnic linkage through affinity test.

4. The Hon'ble Supreme Court in the case of *Mah. Adiwasi*

*Thakur Jamat Swarakshan Samiti v. The State of Maharashtra*¹ has observed that the affinity test cannot be held to be sole criteria for deciding the caste claim of a candidate and totality of the circumstances including the evidence must be looked into. Thus, the conclusion of the Scrutiny Committee would show that the approach of the Scrutiny Committee is contrary to the law now clarified and laid down by the Hon'ble Supreme Court.

5. The learned AGP sought to contend that there are contrary entries, however, this is a facet which the Scrutiny Committee will have to examine after giving an opportunity to the Petitioner.

6. In light thereof, the impugned order dated 19 September 2013 is quashed and set aside and the claim of the Petitioner stands restored to the file of the Scrutiny Committee, Nashik. The Petitioner will appear before the Scrutiny Committee, Nashik on 1 April 2024. Thereupon, the Scrutiny Committee will set up a timetable for disposal of the proceedings.

7. Writ petition is accordingly disposed of in the above terms.

(M.M. SATHAYE, J.)

(NITIN JAMDAR, J.)

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