

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

WRIT PETITION NO. 14813 OF 2022

Ashutosh Satish Thakur

...Petitioner

Versus

Scheduled Tribe Caste Certificate

Verification Committee and Others

...Respondents

.....

Mr.R.G.Panchal for the Petitioner.

Mr.S.B.Kalel, AGP for the Respondent -State.

.....

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

DATE : 17 APRIL 2024

P.C. :

. Heard the learned Counsel for the parties.

2. The Petitioner applied for issuance of the caste certificate as belonging to Thakar Scheduled Tribe to the Competent Authority and the caste certificate was issued on 20 March 2020. The Petitioner was desirous of taking education in reserved category and his caste certificate was sent by the concerned educational institute for verification to Respondent No.1 – Scrutiny Committee. The Petitioner produced evidence in support of his caste claim. Respondent No.1- Scrutiny Committee directed an enquiry through

Vigilance Cell. The enquiry was carried out by the Vigilance Cell and report was submitted. The Vigilance Cell placed on record various documents. Respondent No.1- Scrutiny Committee examined the evidence on record and came to the conclusion that the Petitioner has failed to prove his caste claim. Respondent No.1- Scrutiny Committee, by impugned order dated 15 November 2022, invalidated the caste certificate issued to the Petitioner on 20 March 2020. Being aggrieved, the Petitioner is before us.

3. The learned Counsel for the Petitioner pointed out that the Petitioner had placed on record before Respondent No.1- Scrutiny Committee the cases of the Petitioner's father -Satish Janardan Thakur and his brother – Aniruddha Satish Thakur. The learned Counsel for the Petitioner further pointed out that the caste certificates of the Petitioner's father and brother were invalidated by the Scrutiny Committee by order dated 15 June 2016 and they had filed a Writ Petition bearing No. 3770 of 2017 challenging the said order. By judgment and order dated 20 April 2021, the Division Bench of this Court allowed the said Writ Petition and directed the Scrutiny Committee to issue caste validity certificates to them. This fact is duly noted by Respondent No.1-Scrutiny Committee in the impugned order, however, it has discarded the order passed in the case of the Petitioner's father and brother on the ground that the review petition is contemplated and therefore, the order cannot be considered.

4. The judgment dated 20 April 2021 passed by the Division Bench of this Court in Writ Petition No. 3770 of 2017 is on record. The Division Bench has rendered detailed judgment running into almost 30 pages and analyzing the evidence and the legal position, has passed the following operative order :

“45. In our view, the impugned order dated 15th June, 2016 passed by the Scrutiny Committee invalidating the claim of the petitioner is totally perverse and is unsustainable.

46. We, therefore, pass the following order :-

ORDER

(i) *The impugned order dated 15th June, 2016 passed by the respondent No.1- Scheduled Tribe Caste Certificate Verification Committee, Pune Division, Pune (Exhibit-B to the petition) is hereby quashed and set aside;*

(ii) *Respondent No.1- Scheduled Tribe Caste Certificate Verification Committee, Pune Division, Pune is hereby directed to issue caste validity certificates in favour of the petitioners as “Thakar (ST-44)” within a period of four weeks from the date of communication of this order;*

(iii) *Rule is made absolute in aforesaid terms.*

(iv) *There shall be no order as to costs”.*

In spite of this clear direction to issue caste validity certificates to the Petitioner’s father and brother, Respondent No.1- Scrutiny Committee has invalidated the Petitioner’s caste certificate.

5. We are not informed that any review application for the order dated 20 April 2021 was filed by the Scrutiny Committee. When the Petition came up on board on 1 April 2024, we had adjourned the Petition to enable the learned AGP to take instructions whether the review petition, in fact, was filed. The learned AGP informed that this order of 1 April 2024 has informed to Respondent No.1- Scrutiny Committee. However, it has been orally informed that review is in contemplation. Thus, till date, no review petition is filed. The judgment was passed by this Court almost three years ago. In these circumstances, we find no reason for not to follow the order passed in the case of Petitioner's father and brother to maintain consistency in the Petitioner case, otherwise it will lead to conflicting positions where the Division Bench of this Court declared that the father and the brother of the Petitioner as belonging to one community and as a result of the impugned order by Respondent No.1- Scrutiny Committee, the Petitioner would belong to another community.

6. Accordingly, the Writ Petition is allowed in terms of prayer clauses (A) and (B) which reads thus :

“A) This Hon’ble Court be pleased to quash and set aside the impugned order dated 15th November, 2022 of the Scheduled Tribe Caste Certificate Verification Committee, Pune Division, Pune, Respondent No.1 herein invalidating the tribal claim of petitioner;

B) This Hon'ble Court be pleased to direct the respondent No.1 to validate the tribal claim of the petitioner holding that the petitioner belongs to Thakar (ST-44) (Reserved Category), in view of the Judgment and Order dated 20.4.2021 passed by this Hon'ble Court in WP 3770 of 2017 validating the tribal claim of the father and real brother of the petitioner and also the judgment and order dated 6.8.2019 in WP 8152 of 2019, validating the claim of the cousin sister of the petitioner”.

7. The Writ Petition is disposed of in above terms.

(M.M.SATHAYE, J.)

(NITIN JAMDAR, J.)