

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 14084 OF 2024

Swati D/o Sadashiv Helekar Nee Shruti W/o
Jitendra Jadhav
Age: 42 yrs. occ. Service
R/o. Swarajya, Flat No. 415,
Thiba Palace Road, Behind T.V, Centre
Ratnagiri, Tq. & Dist. Ratnagiri

...Petitioner

Versus

1. The State of Maharashtra Department of Tribal
Development, Mantralaya, Mumbai-32, Through
its Secretary.

2. The Scheduled Tribe Certificate Scrutiny
Committee, Kokan Division, Thane, Dist. Thane.
Through its Member Secretary

3. The Deputy Director of Health Services
Mumbai Circle, Thane

...Respondents

Mr. Sushant Yeramwar for the Petitioner.
Ms. P.J. Gavhane, AGP for Respondent/State.

**CORAM : RAVINDRA V. GHUGE AND
M.M. SATHAYE, JJ.**

DATE : 14th OCTOBER, 2024

ORAL JUDGMENT (Per: Ravindra V. Ghuge, J.)

1. Rule. Rule made returnable forthwith and heard finally by
the consent of the parties.

SNEHA
NITIN
CHAVAN

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2. The Petitioner has suffered invalidation of her claim of belonging to Thakar Scheduled Tribe category, vide order dated 09.01.2023, passed by the Scrutiny Committee. The impugned order was a common order passed in the case of the present Petitioner and her sibling Vrushali. Vrushali approached this Court in Writ Petition No. 1391 of 2023 and by the following order, dated 15.03.2023, the Petition was allowed and the Committee was directed to issue a validity certificate:-

“2. The caste claim of the Petitioner as belonging to “Thakar” is invalidated.

3. Mr.Yeramwar, the learned Counsel for the Petitioner submits that there is not a single contra entry. The entry of caste recorded in the school record of father of the Petitioner of the year 1954 recorded as “Thakar” (Magas) is considered to be contra entry. According to the learned Counsel, earlier, under the State Government Notification “Thakar” caste was notified as Nomadic Tribe. In light of that father of the of the Petitioner was issued with caste certificate in the year 1985 as “Thakar”, Nomadic Tribe.

4. The learned AGP submits that “Magas” is contra entry. The learned AGP further submits that the father of the Petitioner had got the caste certificate as “Thakar”, Nomadic Tribe, so also the agricultural land possessed by the family of the Petitioner does not record that the said land is a tribal land as contemplated under Section 36 of the Maharashtra Land Revenue Code.

5. We have considered the submissions.

6. It appears that the State Government had issued Notification categorizing the persons from Ratnagiri as

“Thakar”, Nomadic Tribe. However, the same was quashed and set aside by this Court in the case of Pandurang Rangnath Chavan Vs. State of Maharashtra & Ors. (1998) 2 Mh.L.J. 806.

7. *Following documents are relied by the Petitioner and the same are found to be genuine in the vigilance.*

<i>Sr. No.</i>	<i>Name of students</i>	<i>Admission No.</i>	<i>Relation with the applicant</i>	<i>Caste registered</i>	<i>Date of admission</i>
1	Swati Sadashiv Helekar	1907	Applicant No.2	Thakar	5/7/1991
2	Vrishali Sadashiv Helekar	1932	Applicant No.1	Thakar	28/10/1991
3	Rupali Sadashiv Helekar	2069	Sister	Thakar	17/6/1993
4	Sadashiv Vishram Garud	57/2	Father	Thakar	3/5/1956
5	Sadashiv Vishram Garud	209/1	Father	Thakar Magas	3/5/1956
6	Sadashiv Vishram (Helekar) Garud	170/1	Father	Thakar Magas	10/5/1954
7	Shankar Vishram Garud	49/1	Uncle	Thakar	2/12/1946
8	Sumati Vishram Garud	138/2	Aunt	Thakar	2/5/1960

8. *Right from 1946 all the documents i.e. the school record of the Petitioner’s father and uncle records caste as “Thakar”. In view of the consistent documentary evidence on record, the Petitioner has proved his claim of “Thakar”.*

9. *In light of that, the impugned judgment is quashed and set aside.*

10. *The Committee shall issue validity certificate to the Petitioner of “Thakar”, Scheduled Tribe, within 15 days.*

11. Rule is accordingly made absolute.”

3. We have perused the genealogy placed on record, which is a part of the Affidavit dated 24.02.2020, tendered by the Petitioner's sibling Vrushali. The genealogy indicates that Vrushali has been granted the validity certificate by the above reproduced Judgment of this Court. The Petitioner and Vrushali are daughters of Sadashiv, son of Vishram. The Petitioner's great grandfather is Sonu, who is the father of Vishram. The biological brother of Sonu is Babaji. Rupesh (second cousin brother of the present Petitioner), is a son of Prabhakar and grandson of Atmaram and great grandson of Babaji. In short, the present Petitioner and Vrushali are from the branch of Sonu and Rupesh is from the branch of Babaji.

4. Considering the conclusions drawn by this Court in the case of Vrushali (reproduced portion of the order), this Court noted that the available record was from 1946 onwards. This Court noticed that the said record cannot be disputed and there is a consistent documentary evidence proving that the present Petitioner and the paternal blood relatives, belong to Thakar Scheduled Tribe category.

5. In view of the above and in the light of the order of this Court dated 15.03.2023, delivered in *Vrushali (supra)*, and *Apoorva d/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No.1 Nagpur*, [2010(6) Mh.L.J.401 : 2010(6) AIR Bom.R.21], this **Writ Petition is allowed**. The impugned judgment is quashed and set aside. The Scrutiny Committee shall issue a Thakar Scheduled Tribe validity certificate to the Petitioner, within a period of 30 days.

6. If any of the cast validity certificates, relied upon by the Petitioner of her paternal side blood relatives, is reopened and invalidated, the petitioner will also suffer the same consequence as a necessary corollary, in the light of the view taken by co-ordinate bench of this Court in the matter of *Shweta Balaji Isankar vs. The State of Maharashtra and others*, [2018 SCC OnLine Bom 103].

7. Rule is made absolute in the above terms.

(M.M. SATHAYE, J.)

(RAVINDRA V. GHUGE, J.)