

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

**WRIT PETITION NO. 12369 OF 2019
WITH
INTERIM APPLICATION NO. 8958 OF 2024**

Tanaji Dattatray Sarjerao. ... Applicant.

Versus

The State of Maharashtra & Ors. ... Respondents.

Mr. R.K. Mendadkar, a/w. Komal Gaikwad, for the Applicant.

Mr. K.S. Thorat, "B" Panel Advocate for Respondent Nos. 1, 2 and 5/State.

**CORAM : RAVINDRA V. GHUGE AND
ASHWIN D. BHOBE, JJ.**

DATE : 14th DECEMBER, 2024

P.C. :

1. While hearing the Interim Application, we noticed that the conspectus of the matter was such that the Writ Petition itself could be decided.

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

3. The learned AGP vehemently opposed the Writ Petition as well as the Interim Application. He relies upon the reasons set out in the impugned order by which the claim of the Petitioner seeking validity certificate of belonging to the 'Thakar' community, has been rejected.

4. In the light of the strenuous submissions of the learned AGP, we have perused the record. There is no dispute that Suvarna Dattatray Sarjerao and Pratap Dattatray Sarjerao, are biological siblings of the present Petitioner. This Court (S.C. Dharmadhikari and R.I. Chagla, JJ) passed an interim order on 10th January, 2020 which reads as under :

“1. Heard both sides. Perused the petition and the annexures thereto, particularly, the impugned order. In our view, an arguable case is made out. Hence, Rule. Learned AGP waives service for respondent Nos.1 and 2.

2. We have heard Mr. Mendadkar on the point of interim relief. In the order passed by the Committee impugned before us, it is clearly observed that Pratap Dattatray Sarjerao is the real brother of the petitioner and to him, Certificate of Validity was issued on 26.9.2005. Similar Certificate of Validity has been issued to Suvarna Dattatray Sarjerao, the real sister of the petitioner. The two Certificates of Validity heavily relied upon by the petitioner have been discarded by observing that they are based on the Certificate of Validity issued to one Rohidas Jalindar Sarjerao, the cousin brother of the petitioner from

the paternal side, on 20.11.2004. In the case of Rohidas Sarjerao, no vigilance enquiry appears to have been held, is the finding of the Committee. The Certificate issued is not tainted muchless vitiated by either fraud or suppression of material facts. We have already held that this is no way of discarding a valid documentary evidence. The documentary evidence has not lost its probative value on some sweeping, general and vague finding of this nature. Hence, the petitioner has made out a strong prima facie case.

3. The petitioner has been appointed on the post of Shikshan Sevak in a reserved post on the establishment of Respondent No.4 Vidyalaya. In such circumstances, the balance of convenience is in favour of the petitioner, as he may lose the job on account of refusal of the Committee to issue a Validity Certificate to him. Thus, irreparable harm and injury will be caused to him in the event the source of his livelihood is lost. When the petitioner has made out a prima facie case for interference with the Committee's order, interest of justice would be served if we grant interim relief in terms of prayer clauses (c) and (d). The employment of the petitioner shall not be terminated only on the ground of non-production of the Caste Scrutiny Certificate.”

5. From the above reproduced order, it is clear that this Court had recorded the contentions of the Petitioner that Pratap Dattatraya Sarjerao and Suvarna Dattatray Sarjerao, are the real brother and sister of the Petitioner.

6. The learned AGP points out from an order (9 pages) dated

10th February, 2020 that several close relatives of the Petitioner including Pratap and Suvarna, were subject to re-opening of their cases since the vigilance inquiry was not conducted in such cases and all these claims for caste validity, earlier granted, were recalled and their claims were rejected. The copy of the said Judgment is taken on record and marked as ‘X’ for identification.

7. All the above candidates approached this Court in Writ Petition No. 8822 of 2022 and group of cases. To be specific, Writ Petition No. 8513 of 2022, pertaining to the case of Pratap and Suvarna, was a part of the said group of petitions. In paragraph 53 and 54, the names of the Pratap and Suvarna, along with Umakant Balbhim Sarjerao in Writ Petition No. 8513 of 2022, have been reproduced in the chart below paragraph 54. Finally, this Court has quashed and set aside the show cause notices issued by the Caste Scrutiny Committee for recalling the validity certificates granted earlier. As such, their validity Certificates were restored.

8. The learned Advocate for the Petitioner submits that subsequently, Jui Shivaji Sarjerao approached this Court in Writ Petition No. 10484 of 2023, which was allowed by the Judgment dated 14th

September, 2023.

9. In view of the above and considering the law laid down in *Apoorva d/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No.1 Nagpur, [2010(6) Mh.L.J.401 AIR 2010(6) Bom.R.21]*, **this Writ Petition is allowed.** The impugned order dated 18th March, 2019 is quashed and set aside. The Committee is directed to issue Thakar Schedule Tribe Certificate to the present Petitioner within a period of 30 days.

10. After the Petitioner tenders the validity certificate to the employer, we permit him to make a representation for quantifying the arrears of the service benefits, if any, and the employer would consider such representation on its own merits by carrying out a strict verification/scrutiny and pass an order within 60 days from the date of tendering of the representation.

11. In view of the above, **the Interim Application** would not survive and **stands disposed off.**

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)