

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

WRIT PETITION NO.2978 OF 2023

Miss. Nilam Mohan Gavankar

Age:- 32 Years, Occu. Service,

R/o. House no. 272, Thakar wadi,

Ashiye, At post. Kankavli, Tal- Kankavli,

Dist- Sindhudurg, 416602

... Petitioner

Versus

1. The State of Maharashtra

Through its Principal Secretary,

Tribal Development Department

Mantralaya, Mumbai

2. The Schedule Tribe Caste Certificate

Verification Committee, Kokan Division, Thane

(Notice to be served upon Ld. Gvt Pleader, Writ Cell AS)

3. Chief Executive Officer,

Zilla Parishad, Sindhudurg,

... Respondents

Mr. S. S. Panchpor a/w Ms. N. S. Mahadik for the Petitioner.

Ms. Pooja Joshi Deshpande for the Respondent No.2.

Mr. Rohit Sakhadeo for Respondent No.3.

Mr. Dipak T. Shigam, Law Officer CVC Thane.

**CORAM : M. S. KARNIK &
ASHWIN D. BHOBE, JJ.**

DATE : 21st MARCH, 2025

JUDGMENT (PER ASHWIN D. BHOBE. J.)

1. By the present petition, Petitioner assails the order dated

06.02.2023 passed by the Respondent No.2 Committee, by which the Tribe claim of the Petitioner as belonging to “Thakar Scheduled Tribe” has been invalidated (Impugned Order).

2. **Factual Matrix:-**

- a) Petitioner was issued Caste Certificate dated 19.01.2004 certifying the Petitioner belongs to the “Thakar-44” Scheduled Tribe.
- b) On 24.07.2012, Petitioner was appointed as “Aarogya Sevak” by the Respondent No.3, in the Scheduled Tribe Category.
- c) On 21.09.2013 Tribe claim of the Petitioner was referred to the Respondent No.2 Committee for verification.
- d) Petitioner filed his affidavit, along with genealogy and other documents in support of his claim of belonging to Thakar Scheduled Tribe. Amongst other documents, Petitioner submitted Caste Validity Certificates issued in favour of his cousin uncle Mr. Pravin Mohan Pawar and cousin paternal aunt Mrs. Pratibha Mohan Pawar. Reliance was placed on the Caste Validity Certificate issued by the Respondent No.2 to Mr. Manoj Gavankar, second cousin brother of the Petitioner; Caste Validity Certificate issued to Mr. Suraj Sunil Gavankar, the cousin brother of the Petitioner and the Caste Validity Certificate issued to Ms.

Sujata Sunil Gavankar the cousin sister of the Petitioner.

e) By the Impugned order Respondent No.2 has rejected the Tribe claim of the Petitioner.

Submissions:

3. Mr. S. S. Panchpor, the learned Advocate appearing for the Petitioner submits that the blood relations of the Petitioner from paternal side are having Caste Validity Certificate as belonging to “Thakar” Scheduled Tribe, as such the Petitioner was entitled for grant of Scheduled Tribe Validity Certificate as belonging to “Thakar”. He submits that this Court in the case of Snehal Dattaram Thakur Vs. State of Maharashtra¹ has held that the grounds taken by the Scrutiny Committee in rejecting the Tribe claims on the ground of area restriction are set aside. He relies on the Validity Certificates issued in favour of Manoj Gavankar, Suraj Gavankar and Sujata Gavankar, the paternal side blood relatives of the Petitioner and prays that the petition be allowed.

4. Ms. Pooja Joshi Deshpande, learned AGP for the Respondent-State has opposed the petition. By relying on the reasons recorded in the Impugned order, she prays for dismissal of the petition.

¹ Writ Petition No.9417 of 2023

5. With the assistance of the parties, we have perused the record. From the rival contentions of the parties the question for determination is whether the Petitioner on the basis of documentary evidence / material on record has been able to establish that they belong to “Thakar” Scheduled Tribe?

6. Petitioner relies on the Genealogy Tree which is a part of Exhibit D, (page No.64). Respondent No.2 has not disputed the said document.

Analysis:-

7. Petitioner in paragraph No.7 and 8 of the memo of petition makes a reference to the Caste Validity Certificates issued by the Respondent No.2 Committee to the following blood relatives from paternal side of the Petitioner:-

- a) Mr. Manoj Satyavijay Gavankar second cousin brother of the Petitioner.
- b) Mr. Suraj Sunil Gavankar cousin brother of the Petitioner.
- c) Ms. Sujata Sunil Gavankar cousin sister of the

Petitioner.

8. Section 8 of Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000, casts the burden of proving that the person belonging to a Caste, Tribe or Class is upon such Claimant who claims to belong to a particular Caste or Tribe.

9. Rule 2(1)(f) of the Maharashtra Scheduled Tribes (Regulation of Issuance and Verification of) Certificate Rules, 2005 defines “Relative” to mean a blood relative from the paternal side of the applicant.

10. Petitioner has relied on the Caste Validity Certificates of his blood relatives from paternal side. Mr. Panchpor submitted that the Petitioner on oath has stated that the person referred to in the genealogy tree who are holders of Caste Validity Certificates, are their blood relative from paternal side. Thus, the Petitioner has discharged the burden cast on them.

11. Ms. Pooja J. Deshpande Learned AGP does not dispute the

relationship of the Petitioner with their relatives referred to in para No.7 herein above.

12. Learned Advocate Mr. S. S. Panchpor submits that the Caste Validity Certificates issued to the aforesaid blood relatives of the Petitioner from paternal side, are intact as on date. Respondent No.2 has not produced any document indicating any of the said Caste Validity Certificates, being invalidated.

13. When the Respondent No.2 did not find Petitioner's relation with the afore-referred Caste validity Certificate holders disputable, the law laid down by this Court in *Apoorva D/O Vinay Nichale versus Divisional Caste Certificate Scrutiny Committee No.1 and Others*,² ought to have been followed. Respondent No.2. could not have ignored the Caste Validity Certificates granted to the blood relatives of the Petitioner's paternal side relatives.

14. The Hon'ble Supreme Court in the case of *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti versus State of Maharashtra and Others*,³ has considered the sanctity and

² 2010 SCC OnLine Bom 1053

³ 2023 SCC OnLine SC 326

significance of the prescribed procedure under the Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000. The Hon'ble Supreme Court has dealt with the procedure that has to be followed by the Committee, the importance and significance of the vigilance cell inquiry and establishing the relationship by the claimant with those having a Caste or a Tribe Validity Certificate. Case of *Apoorva D/O Vinay Nichale* (supra) is referred to in paragraph No. 6 of the judgment in the case of *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti* (supra).

15. In the light of the above position of law emerging before us, as well as upon considering the above referred documents, we are of the opinion that the reasons assigned by the Respondent No.2 in the impugned order in invalidating the claim of the Petitioner is erroneous and unsustainable.

16. In view of the above, the impugned order of the Respondent No.2 is hereby quashed and set aside. The Respondent No.2 is

directed to issue “Thakar” Scheduled Tribe Validity Certificate to the Petitioner within a period of 30 days from today.

17. The Writ Petition is disposed off in the above said terms. There shall be no orders as to cost.

(ASHWIN D. BHOBE, J.)

(M.S. KARNIK, J.)